

FIRST REGULAR SESSION
[TRULY AGREED TO AND FINALLY PASSED]
CONFERENCE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
SENATE BILL NO. 296

95TH GENERAL ASSEMBLY

2009

1311S.07T

AN ACT

To repeal sections 105.711, 195.070, 195.100, 214.270, 214.280, 214.330, 214.385, 214.387, 324.001, 324.065, 324.068, 324.071, 324.077, 324.080, 324.086, 324.089, 324.139, 324.141, 324.212, 324.247, 324.415, 324.481, 324.487, 328.030, 328.040, 328.050, 328.060, 328.115, 328.140, 328.150, 328.160, 329.180, 329.190, 329.191, 329.200, 329.210, 329.220, 329.230, 329.240, 334.735, 334.850, 337.712, 337.715, 337.718, 337.727, 337.730, 337.733, 338.010, 338.013, 338.057, 338.220, 338.337, 346.015, 346.045, 346.050, 346.070, 346.075, 346.080, 346.090, 346.095, 346.100, 346.105, 346.115, 346.125, and 376.811, RSMo, and to enact in lieu thereof sixty-eight new sections relating to regulation of certain professions, with penalty provisions.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 105.711, 195.070, 195.100, 214.270, 214.280, 214.330, 214.385, 214.387, 324.001, 324.065, 324.068, 324.071, 324.077, 324.080, 324.086, 324.089, 324.139, 324.141, 324.212, 324.247, 324.415, 324.481, 324.487, 328.030, 328.040, 328.050, 328.060, 328.115, 328.140, 328.150, 328.160, 329.180, 329.190, 329.191, 329.200, 329.210, 329.220, 329.230, 329.240, 334.735, 334.850, 337.712, 337.715, 337.718, 337.727, 337.730, 337.733, 338.010, 338.013, 338.057, 338.220, 338.337, 346.015, 346.045, 346.050, 346.070, 346.075, 346.080, 346.090, 346.095, 346.100, 346.105, 346.115, 346.125, and 376.811, RSMo, are repealed and sixty-eight new sections enacted in lieu thereof, to be known as sections 105.711, 195.070, 195.100, 214.270, 214.280, 214.330, 214.385, 214.387, 324.001, 324.065, 324.068, 324.071, 324.077, 324.080, 324.086, 324.089, 324.139, 324.141, 324.212,

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

12 324.247, 324.415, 324.481, 324.487, 327.442, 328.115, 328.150, 328.160, 332.112,
13 332.113, 334.735, 334.747, 334.850, 335.300, 335.305, 335.310, 335.315, 335.320,
14 335.325, 335.330, 335.335, 335.340, 335.345, 335.350, 335.355, 337.712, 337.715,
15 337.718, 337.727, 337.730, 337.733, 338.010, 338.013, 338.220, 338.337, 346.015,
16 346.045, 346.050, 346.070, 346.075, 346.080, 346.090, 346.095, 346.100, 346.105,
17 346.115, 346.125, 376.811, and 1, to read as follows:

105.711. 1. There is hereby created a "State Legal Expense Fund" which
2 shall consist of moneys appropriated to the fund by the general assembly and
3 moneys otherwise credited to such fund pursuant to section 105.716.

4 2. Moneys in the state legal expense fund shall be available for the
5 payment of any claim or any amount required by any final judgment rendered by
6 a court of competent jurisdiction against:

7 (1) The state of Missouri, or any agency of the state, pursuant to section
8 536.050 or 536.087, RSMo, or section 537.600, RSMo;

9 (2) Any officer or employee of the state of Missouri or any agency of the
10 state, including, without limitation, elected officials, appointees, members of state
11 boards or commissions, and members of the Missouri national guard upon conduct
12 of such officer or employee arising out of and performed in connection with his or
13 her official duties on behalf of the state, or any agency of the state, provided that
14 moneys in this fund shall not be available for payment of claims made under
15 chapter 287, RSMo;

16 (3) (a) Any physician, psychiatrist, pharmacist, podiatrist, dentist, nurse,
17 or other health care provider licensed to practice in Missouri under the provisions
18 of chapter 330, 332, 334, 335, 336, 337 or 338, RSMo, who is employed by the
19 state of Missouri or any agency of the state under formal contract to conduct
20 disability reviews on behalf of the department of elementary and secondary
21 education or provide services to patients or inmates of state correctional facilities
22 on a part-time basis, and any physician, psychiatrist, pharmacist, podiatrist,
23 dentist, nurse, or other health care provider licensed to practice in Missouri
24 under the provisions of chapter 330, 332, 334, 335, 336, 337, or 338, RSMo, who
25 is under formal contract to provide services to patients or inmates at a county jail
26 on a part-time basis;

27 (b) Any physician licensed to practice medicine in Missouri under the
28 provisions of chapter 334, RSMo, and his professional corporation organized
29 pursuant to chapter 356, RSMo, who is employed by or under contract with a city
30 or county health department organized under chapter 192, RSMo, or chapter 205,
31 RSMo, or a city health department operating under a city charter, or a combined
32 city-county health department to provide services to patients for medical care

33 caused by pregnancy, delivery, and child care, if such medical services are
34 provided by the physician pursuant to the contract without compensation or the
35 physician is paid from no other source than a governmental agency except for
36 patient co-payments required by federal or state law or local ordinance;

37 (c) Any physician licensed to practice medicine in Missouri under the
38 provisions of chapter 334, RSMo, who is employed by or under contract with a
39 federally funded community health center organized under Section 315, 329, 330
40 or 340 of the Public Health Services Act (42 U.S.C. 216, 254c) to provide services
41 to patients for medical care caused by pregnancy, delivery, and child care, if such
42 medical services are provided by the physician pursuant to the contract or
43 employment agreement without compensation or the physician is paid from no
44 other source than a governmental agency or such a federally funded community
45 health center except for patient co-payments required by federal or state law or
46 local ordinance. In the case of any claim or judgment that arises under this
47 paragraph, the aggregate of payments from the state legal expense fund shall be
48 limited to a maximum of one million dollars for all claims arising out of and
49 judgments based upon the same act or acts alleged in a single cause against any
50 such physician, and shall not exceed one million dollars for any one claimant;

51 (d) Any physician licensed pursuant to chapter 334, RSMo, who is
52 affiliated with and receives no compensation from a nonprofit entity qualified as
53 exempt from federal taxation under Section 501(c)(3) of the Internal Revenue
54 Code of 1986, as amended, which offers a free health screening in any setting or
55 any physician, nurse, physician assistant, dental hygienist, dentist, or other
56 health care professional licensed or registered under chapter 330, 331, 332, 334,
57 335, 336, 337, or 338, RSMo, who provides health care services within the scope
58 of his or her license or registration at a city or county health department
59 organized under chapter 192, RSMo, or chapter 205, RSMo, a city health
60 department operating under a city charter, or a combined city-county health
61 department, or a nonprofit community health center qualified as exempt from
62 federal taxation under Section 501(c)(3) of the Internal Revenue Code of 1986, as
63 amended, if such services are restricted to primary care and preventive health
64 services, provided that such services shall not include the performance of an
65 abortion, and if such health services are provided by the health care professional
66 licensed or registered under chapter 330, 331, 332, 334, 335, 336, 337, or 338,
67 RSMo, without compensation. MO HealthNet or Medicare payments for primary
68 care and preventive health services provided by a health care professional
69 licensed or registered under chapter 330, 331, 332, 334, 335, 336, 337, or 338,
70 RSMo, who volunteers at a free health clinic is not compensation for the purpose

71 of this section if the total payment is assigned to the free health clinic. For the
72 purposes of the section, "free health clinic" means a nonprofit community health
73 center qualified as exempt from federal taxation under Section 501 (c)(3) of the
74 Internal Revenue Code of 1987, as amended, that provides primary care and
75 preventive health services to people without health insurance coverage for the
76 services provided without charge. In the case of any claim or judgment that
77 arises under this paragraph, the aggregate of payments from the state legal
78 expense fund shall be limited to a maximum of five hundred thousand dollars, for
79 all claims arising out of and judgments based upon the same act or acts alleged
80 in a single cause and shall not exceed five hundred thousand dollars for any one
81 claimant, and insurance policies purchased pursuant to the provisions of section
82 105.721 shall be limited to five hundred thousand dollars. Liability or
83 malpractice insurance obtained and maintained in force by or on behalf of any
84 health care professional licensed or registered under chapter 330, 331, 332, 334,
85 335, 336, 337, or 338, RSMo, shall not be considered available to pay that portion
86 of a judgment or claim for which the state legal expense fund is liable under this
87 paragraph;

88 (e) Any physician, nurse, physician assistant, dental hygienist, or dentist
89 licensed or registered to practice medicine, nursing, or dentistry or to act as a
90 physician assistant or dental hygienist in Missouri under the provisions of
91 chapter 332, RSMo, chapter 334, RSMo, or chapter 335, RSMo, **or lawfully**
92 **practicing**, who provides medical, nursing, or dental treatment within the scope
93 of his license or registration to students of a school whether a public, private, or
94 parochial elementary or secondary school **or summer camp**, if such physician's
95 treatment is restricted to primary care and preventive health services and if such
96 medical, dental, or nursing services are provided by the physician, dentist,
97 physician assistant, dental hygienist, or nurse without compensation. In the case
98 of any claim or judgment that arises under this paragraph, the aggregate of
99 payments from the state legal expense fund shall be limited to a maximum of five
100 hundred thousand dollars, for all claims arising out of and judgments based upon
101 the same act or acts alleged in a single cause and shall not exceed five hundred
102 thousand dollars for any one claimant, and insurance policies purchased pursuant
103 to the provisions of section 105.721 shall be limited to five hundred thousand
104 dollars; or

105 (f) Any physician licensed under chapter 334, RSMo, or dentist licensed
106 under chapter 332, RSMo, providing medical care without compensation to an
107 individual referred to his or her care by a city or county health department
108 organized under chapter 192 or 205, RSMo, a city health department operating

109 under a city charter, or a combined city-county health department, or nonprofit
110 health center qualified as exempt from federal taxation under Section 501(c)(3)
111 of the Internal Revenue Code of 1986, as amended, or a federally funded
112 community health center organized under Section 315, 329, 330, or 340 of the
113 Public Health Services Act, 42 U.S.C. Section 216, 254c; provided that such
114 treatment shall not include the performance of an abortion. In the case of any
115 claim or judgment that arises under this paragraph, the aggregate of payments
116 from the state legal expense fund shall be limited to a maximum of one million
117 dollars for all claims arising out of and judgments based upon the same act or
118 acts alleged in a single cause and shall not exceed one million dollars for any one
119 claimant, and insurance policies purchased under the provisions of section
120 105.721 shall be limited to one million dollars. Liability or malpractice insurance
121 obtained and maintained in force by or on behalf of any physician licensed under
122 chapter 334, RSMo, or any dentist licensed under chapter 332, RSMo, shall not
123 be considered available to pay that portion of a judgment or claim for which the
124 state legal expense fund is liable under this paragraph;

125 (4) Staff employed by the juvenile division of any judicial circuit;

126 (5) Any attorney licensed to practice law in the state of Missouri who
127 practices law at or through a nonprofit community social services center qualified
128 as exempt from federal taxation under Section 501(c)(3) of the Internal Revenue
129 Code of 1986, as amended, or through any agency of any federal, state, or local
130 government, if such legal practice is provided by the attorney without
131 compensation. In the case of any claim or judgment that arises under this
132 subdivision, the aggregate of payments from the state legal expense fund shall be
133 limited to a maximum of five hundred thousand dollars for all claims arising out
134 of and judgments based upon the same act or acts alleged in a single cause and
135 shall not exceed five hundred thousand dollars for any one claimant, and
136 insurance policies purchased pursuant to the provisions of section 105.721 shall
137 be limited to five hundred thousand dollars; or

138 (6) Any social welfare board created under section 205.770, RSMo, and the
139 members and officers thereof upon conduct of such officer or employee while
140 acting in his or her capacity as a board member or officer, and any physician,
141 nurse, physician assistant, dental hygienist, dentist, or other health care
142 professional licensed or registered under chapter 330, 331, 332, 334, 335, 336,
143 337, or 338, RSMo, who is referred to provide medical care without compensation
144 by the board and who provides health care services within the scope of his or her
145 license or registration as prescribed by the board.

146 3. The department of health and senior services shall promulgate rules

147 regarding contract procedures and the documentation of care provided under
148 paragraphs (b), (c), (d), (e), and (f) of subdivision (3) of subsection 2 of this
149 section. The limitation on payments from the state legal expense fund or any
150 policy of insurance procured pursuant to the provisions of section 105.721,
151 provided in subsection 7 of this section, shall not apply to any claim or judgment
152 arising under paragraph (a), (b), (c), (d), (e), or (f) of subdivision (3) of subsection
153 2 of this section. Any claim or judgment arising under paragraph (a), (b), (c), (d),
154 (e), or (f) of subdivision (3) of subsection 2 of this section shall be paid by the
155 state legal expense fund or any policy of insurance procured pursuant to section
156 105.721, to the extent damages are allowed under sections 538.205 to 538.235,
157 RSMo. Liability or malpractice insurance obtained and maintained in force by
158 any health care professional licensed or registered under chapter 330, 331, 332,
159 334, 335, 336, 337, or 338, RSMo, for coverage concerning his or her private
160 practice and assets shall not be considered available under subsection 7 of this
161 section to pay that portion of a judgment or claim for which the state legal
162 expense fund is liable under paragraph (a), (b), (c), (d), (e), or (f) of subdivision (3)
163 of subsection 2 of this section. However, a health care professional licensed or
164 registered under chapter 330, 331, 332, 334, 335, 336, 337, or 338, RSMo, may
165 purchase liability or malpractice insurance for coverage of liability claims or
166 judgments based upon care rendered under paragraphs (c), (d), (e), and (f) of
167 subdivision (3) of subsection 2 of this section which exceed the amount of liability
168 coverage provided by the state legal expense fund under those paragraphs. Even
169 if paragraph (a), (b), (c), (d), (e), or (f) of subdivision (3) of subsection 2 of this
170 section is repealed or modified, the state legal expense fund shall be available for
171 damages which occur while the pertinent paragraph (a), (b), (c), (d), (e), or (f) of
172 subdivision (3) of subsection 2 of this section is in effect.

173 4. The attorney general shall promulgate rules regarding contract
174 procedures and the documentation of legal practice provided under subdivision
175 (5) of subsection 2 of this section. The limitation on payments from the state
176 legal expense fund or any policy of insurance procured pursuant to section
177 105.721 as provided in subsection 7 of this section shall not apply to any claim
178 or judgment arising under subdivision (5) of subsection 2 of this section. Any
179 claim or judgment arising under subdivision (5) of subsection 2 of this section
180 shall be paid by the state legal expense fund or any policy of insurance procured
181 pursuant to section 105.721 to the extent damages are allowed under sections
182 538.205 to 538.235, RSMo. Liability or malpractice insurance otherwise obtained
183 and maintained in force shall not be considered available under subsection 7 of
184 this section to pay that portion of a judgment or claim for which the state legal

185 expense fund is liable under subdivision (5) of subsection 2 of this
186 section. However, an attorney may obtain liability or malpractice insurance for
187 coverage of liability claims or judgments based upon legal practice rendered
188 under subdivision (5) of subsection 2 of this section that exceed the amount of
189 liability coverage provided by the state legal expense fund under subdivision (5)
190 of subsection 2 of this section. Even if subdivision (5) of subsection 2 of this
191 section is repealed or amended, the state legal expense fund shall be available for
192 damages that occur while the pertinent subdivision (5) of subsection 2 of this
193 section is in effect.

194 5. All payments shall be made from the state legal expense fund by the
195 commissioner of administration with the approval of the attorney
196 general. Payment from the state legal expense fund of a claim or final judgment
197 award against a health care professional licensed or registered under chapter 330,
198 331, 332, 334, 335, 336, 337, or 338, RSMo, described in paragraph (a), (b), (c),
199 (d), (e), or (f) of subdivision (3) of subsection 2 of this section, or against an
200 attorney in subdivision (5) of subsection 2 of this section, shall only be made for
201 services rendered in accordance with the conditions of such paragraphs. In the
202 case of any claim or judgment against an officer or employee of the state or any
203 agency of the state based upon conduct of such officer or employee arising out of
204 and performed in connection with his or her official duties on behalf of the state
205 or any agency of the state that would give rise to a cause of action under section
206 537.600, RSMo, the state legal expense fund shall be liable, excluding punitive
207 damages, for:

- 208 (1) Economic damages to any one claimant; and
- 209 (2) Up to three hundred fifty thousand dollars for noneconomic
210 damages. The state legal expense fund shall be the exclusive remedy and shall
211 preclude any other civil actions or proceedings for money damages arising out of
212 or relating to the same subject matter against the state officer or employee, or the
213 officer's or employee's estate. No officer or employee of the state or any agency
214 of the state shall be individually liable in his or her personal capacity for conduct
215 of such officer or employee arising out of and performed in connection with his or
216 her official duties on behalf of the state or any agency of the state. The
217 provisions of this subsection shall not apply to any defendant who is not an officer
218 or employee of the state or any agency of the state in any proceeding against an
219 officer or employee of the state or any agency of the state. Nothing in this
220 subsection shall limit the rights and remedies otherwise available to a claimant
221 under state law or common law in proceedings where one or more defendants is
222 not an officer or employee of the state or any agency of the state.

223 6. The limitation on awards for noneconomic damages provided for in this
224 subsection shall be increased or decreased on an annual basis effective January
225 first of each year in accordance with the Implicit Price Deflator for Personal
226 Consumption Expenditures as published by the Bureau of Economic Analysis of
227 the United States Department of Commerce. The current value of the limitation
228 shall be calculated by the director of the department of insurance, financial
229 institutions and professional registration, who shall furnish that value to the
230 secretary of state, who shall publish such value in the Missouri Register as soon
231 after each January first as practicable, but it shall otherwise be exempt from the
232 provisions of section 536.021, RSMo.

233 7. Except as provided in subsection 3 of this section, in the case of any
234 claim or judgment that arises under sections 537.600 and 537.610, RSMo, against
235 the state of Missouri, or an agency of the state, the aggregate of payments from
236 the state legal expense fund and from any policy of insurance procured pursuant
237 to the provisions of section 105.721 shall not exceed the limits of liability as
238 provided in sections 537.600 to 537.610, RSMo. No payment shall be made from
239 the state legal expense fund or any policy of insurance procured with state funds
240 pursuant to section 105.721 unless and until the benefits provided to pay the
241 claim by any other policy of liability insurance have been exhausted.

242 8. The provisions of section 33.080, RSMo, notwithstanding, any moneys
243 remaining to the credit of the state legal expense fund at the end of an
244 appropriation period shall not be transferred to general revenue.

245 9. Any rule or portion of a rule, as that term is defined in section 536.010,
246 RSMo, that is promulgated under the authority delegated in sections 105.711 to
247 105.726 shall become effective only if it has been promulgated pursuant to the
248 provisions of chapter 536, RSMo. Nothing in this section shall be interpreted to
249 repeal or affect the validity of any rule filed or adopted prior to August 28, 1999,
250 if it fully complied with the provisions of chapter 536, RSMo. This section and
251 chapter 536, RSMo, are nonseverable and if any of the powers vested with the
252 general assembly pursuant to chapter 536, RSMo, to review, to delay the effective
253 date, or to disapprove and annul a rule are subsequently held unconstitutional,
254 then the grant of rulemaking authority and any rule proposed or adopted after
255 August 28, 1999, shall be invalid and void.

195.070. 1. A physician, podiatrist, dentist, [or] a registered optometrist
2 certified to administer pharmaceutical agents as provided in section 336.220,
3 RSMo, **or a physician assistant in accordance with section 334.747,**
4 **RSMo**, in good faith and in the course of his or her professional practice only,
5 may prescribe, administer, and dispense controlled substances or he or she may

6 cause the same to be administered or dispensed by an individual as authorized
7 by statute.

8 2. An advanced practice registered nurse, as defined in section 335.016,
9 RSMo, but not a certified registered nurse anesthetist as defined in subdivision
10 (8) of section 335.016, RSMo, who holds a certificate of controlled substance
11 prescriptive authority from the board of nursing under section 335.019, RSMo,
12 and who is delegated the authority to prescribe controlled substances under a
13 collaborative practice arrangement under section 334.104, RSMo, may prescribe
14 any controlled substances listed in Schedules III, IV, and V of section
15 195.017. However, no such certified advanced practice registered nurse shall
16 prescribe controlled substance for his or her own self or family. Schedule III
17 narcotic controlled substance prescriptions shall be limited to a one hundred
18 twenty-hour supply without refill.

19 3. A veterinarian, in good faith and in the course of ~~[his]~~ **the**
20 **veterinarian's** professional practice only, and not for use by a human being,
21 may prescribe, administer, and dispense controlled substances and ~~[he]~~ **the**
22 **veterinarian** may cause them to be administered by an assistant or orderly
23 under his **or her** direction and supervision.

24 4. A practitioner shall not accept any portion of a controlled substance
25 unused by a patient, for any reason, if such practitioner did not originally
26 dispense the drug.

27 5. An individual practitioner ~~[may]~~ **shall** not prescribe or dispense a
28 controlled substance for such practitioner's personal use except in a medical
29 emergency.

195.100. 1. It shall be unlawful to distribute any controlled substance in
2 a commercial container unless such container bears a label containing an
3 identifying symbol for such substance in accordance with federal laws.

4 2. It shall be unlawful for any manufacturer of any controlled substance
5 to distribute such substance unless the labeling thereof conforms to the
6 requirements of federal law and contains the identifying symbol required in
7 subsection 1 of this section.

8 3. The label of a controlled substance in Schedule II, III or IV shall, when
9 dispensed to or for a patient, contain a clear, concise warning that it is a criminal
10 offense to transfer such narcotic or dangerous drug to any person other than the
11 patient.

12 4. Whenever a manufacturer sells or dispenses a controlled substance and
13 whenever a wholesaler sells or dispenses a controlled substance in a package
14 prepared by him **or her**, ~~[he]~~ **the manufacturer or wholesaler** shall securely

15 affix to each package in which that drug is contained a label showing in legible
16 English the name and address of the vendor and the quantity, kind, and form of
17 controlled substance contained therein. No person except a pharmacist for the
18 purpose of filling a prescription under sections 195.005 to 195.425, shall alter,
19 deface, or remove any label so affixed.

20 5. Whenever a pharmacist or practitioner sells or dispenses any controlled
21 substance on a prescription issued by a physician, **physician assistant**, dentist,
22 podiatrist, veterinarian, or advanced practice registered nurse, [he] **the**
23 **pharmacist or practitioner** shall affix to the container in which such drug is
24 sold or dispensed a label showing his **or her** own name and address of the
25 pharmacy or practitioner for whom he **or she** is lawfully acting; the name of the
26 patient or, if the patient is an animal, the name of the owner of the animal and
27 the species of the animal; the name of the physician, **physician assistant**,
28 dentist, podiatrist, advanced practice registered nurse, or veterinarian by whom
29 the prescription was written; the name of the collaborating physician if the
30 prescription is written by an advanced practice registered nurse **or the**
31 **supervising physician if the prescription is written by a physician**
32 **assistant**, and such directions as may be stated on the prescription. No person
33 shall alter, deface, or remove any label so affixed.

 214.270. As used in sections 214.270 to 214.410, the following terms
2 mean:

3 (1) "Agent" or "authorized agent", any person empowered by the cemetery
4 operator to represent the operator in dealing with the general public, including
5 owners of the burial space in the cemetery;

6 (2) "Burial space", one or more than one plot, grave, mausoleum, crypt,
7 lawn, surface lawn crypt, niche or space used or intended for the interment of the
8 human dead;

9 (3) **"Burial merchandise", a monument, marker, memorial,**
10 **tombstone, headstone, urn, outer burial container, or similar article**
11 **which may contain specific lettering, shape, color, or design as**
12 **specified by the purchaser;**

13 (4) "Cemetery", property restricted in use for the interment of the human
14 dead by formal dedication or reservation by deed but shall not include any of the
15 foregoing held or operated by the state or federal government or any political
16 subdivision thereof, any incorporated city or town, any county or any religious
17 organization, cemetery association or fraternal society holding the same for sale
18 solely to members and their immediate families;

19 [(4)] (5) "Cemetery association", any number of persons who shall have

20 associated themselves by articles of agreement in writing as a not-for-profit
21 association or organization, whether incorporated or unincorporated, formed for
22 the purpose of ownership, preservation, care, maintenance, adornment and
23 administration of a cemetery. Cemetery associations shall be governed by a board
24 of directors. Directors shall serve without compensation;

25 [(5)] **(6)** "Cemetery operator" or "operator", any person who owns,
26 controls, operates or manages a cemetery;

27 [(6)] **(7)** "Cemetery prearranged contract", any contract with a
28 cemetery operator for goods and services covered by this chapter
29 which includes a sale of burial merchandise in which delivery of
30 merchandise or a valid warehouse receipt under sections 214.270 to
31 214.550 is deferred pursuant to written instructions from the purchaser.
32 It shall also mean any contract for goods and services covered by
33 sections 214.270 to 214.550 which includes a sale of burial services to be
34 performed at a future date;

35 **(8)** "Cemetery service" or "burial service", those services performed by
36 a cemetery owner or operator licensed [pursuant to this chapter] as an endowed
37 care or nonendowed cemetery including setting a monument or marker,
38 setting a tent, excavating a grave, [or] interment, entombment, inurnment,
39 setting a vault, or other related services within the cemetery;

40 [(7)] **(9)** "Columbarium", a building or structure for the inurnment of
41 cremated human remains;

42 [(8)] **(10)** "Community mausoleum", a mausoleum containing a
43 substantial area of enclosed space and having either a heating, ventilating or air
44 conditioning system;

45 [(9)] **(11)** "Department", department of insurance, financial institutions
46 and professional registration;

47 [(10)] **(12)** "Developed acreage", the area which has been platted into
48 grave spaces and has been developed with roads, paths, features, or
49 ornamentalions and in which burials can be made;

50 [(11)] **(13)** "Director", director of the division of professional registration;

51 [(12)] **(14)** "Division", division of professional registration;

52 [(13)] **(15)** "Endowed care", the maintenance, repair and care of all burial
53 space subject to the endowment within a cemetery, including any improvements
54 made for the benefit of such burial space. Endowed care shall include the general
55 overhead expenses needed to accomplish such maintenance, repair, care and
56 improvements. Endowed care shall include the terms perpetual care, permanent
57 care, continual care, eternal care, care of duration, or any like term;

58 [(14)] **(16)** "Endowed care cemetery", a cemetery, or a section of a
59 cemetery, which represents itself as offering endowed care and which complies
60 with the provisions of sections 214.270 to 214.410;

61 [(15)] **(17)** "Endowed care fund", "endowed care trust", or "trust", any
62 cash or cash equivalent, to include any income therefrom, impressed with a trust
63 by the terms of any gift, grant, contribution, payment, devise or bequest to an
64 endowed care cemetery, or its endowed care trust, or funds to be delivered to an
65 endowed care cemetery's trust received pursuant to a contract and accepted by
66 any endowed care cemetery operator or his agent. This definition includes the
67 terms endowed care funds, maintenance funds, memorial care funds, perpetual
68 care funds, or any like term;

69 **(18)** "Escrow account", an account established in lieu of an
70 endowed care fund as provided under section 214.330 or an account
71 used to hold deposits under section 214.387;

72 **(19)** "Escrow agent", an attorney, title company, certified public
73 accountant or other person authorized by the division to exercise
74 escrow powers under the laws of this state;

75 **(20)** "Escrow agreement", an agreement subject to approval by the
76 office between an escrow agent and a cemetery operator or its agent or
77 related party with common ownership, to receive and administer
78 payments under cemetery prearranged contracts sold by the cemetery
79 operator;

80 [(16)] **(21)** "Family burial ground", a cemetery in which no burial space
81 is sold to the public and in which interments are restricted to persons related by
82 blood or marriage;

83 [(17)] **(22)** "Fraternal cemetery", a cemetery owned, operated, controlled
84 or managed by any fraternal organization or auxiliary organizations thereof, in
85 which the sale of burial space is restricted solely to its members and their
86 immediate families;

87 [(18)] **(23)** "Garden mausoleum", a mausoleum without a substantial area
88 of enclosed space and having its crypt and niche fronts open to the
89 atmosphere. Ventilation of the crypts by forced air or otherwise does not
90 constitute a garden mausoleum as a community mausoleum;

91 [(19)] **(24)** "Government cemetery", or "municipal cemetery", a cemetery
92 owned, operated, controlled or managed by the federal government, the state or
93 a political subdivision of the state, including a county or municipality or
94 instrumentality thereof;

95 [(20)] **(25)** "Grave" or "plot", a place of ground in a cemetery, used or

96 intended to be used for burial of human remains;
97 [(21)] **(26)** "Human remains", the body of a deceased person in any state
98 of decomposition, as well as cremated remains;
99 [(22)] **(27)** "Inurnment", placing an urn containing cremated remains in
100 a burial space;
101 [(23)] **(28)** "Lawn crypt", a burial vault or other permanent container for
102 a casket which is permanently installed below ground prior to the time of the
103 actual interment. A lawn crypt may permit single or multiple interments in a
104 grave space;
105 [(24)] **(29)** "Mausoleum", a structure or building for the entombment of
106 human remains in crypts;
107 [(25)] **(30)** "Niche", a space in a columbarium used or intended to be used
108 for inurnment of cremated remains;
109 [(26)] **(31)** "Nonendowed care cemetery", or "nonendowed cemetery", a
110 cemetery or a section of a cemetery for which no endowed care **trust** fund has
111 been established in accordance with sections 214.270 to 214.410;
112 **(32) "Office", the office of endowed care cemeteries within the**
113 **division of professional registration;**
114 [(27)] **(33)** "Owner of burial space", a person to whom the cemetery
115 operator or his authorized agent has transferred the right of use of burial space;
116 [(28)] **(34)** "Person", an individual, corporation, partnership, joint
117 venture, association, trust or any other legal entity;
118 [(29)] **(35)** "Registry", the list of cemeteries maintained in the division
119 office for public review. The division may charge a fee for copies of the registry;
120 [(30)] **(36)** "Religious cemetery", a cemetery owned, operated, controlled
121 or managed by any church, convention of churches, religious order or affiliated
122 auxiliary thereof in which the sale of burial space is restricted solely to its
123 members and their immediate families;
124 [(31)] **(37)** "Surface lawn crypt", a sealed burial chamber whose lid
125 protrudes above the land surface;
126 [(32)] **(38)** "Total acreage", the entire tract which is dedicated to or
127 reserved for cemetery purposes;
128 [(33)] **(39)** "Trustee of an endowed care fund", the separate legal entity
129 appointed as trustee of an endowed care fund.

214.280. 1. Operators of all existing cemeteries shall, prior to August
2 twenty-eighth following August 28, 1994, elect to operate each cemetery as an
3 endowed care cemetery as defined in subdivision [(12)] **(16)** of section 214.270
4 and shall register such intention with the division and remit the required

5 registration fee or, failing such election, shall operate each cemetery for which
6 such election is not made as a nonendowed cemetery without regard to
7 registration fees or penalties. Operators of all cemeteries hereafter established
8 shall, within ninety days from the establishment thereof, elect to operate each
9 cemetery as an "endowed care cemetery", or as a "nonendowed cemetery". Such
10 election for newly established cemeteries shall be filed with the division, on a
11 form provided by the division. Any such election made subsequent to August 28,
12 1994, shall be accompanied by a filing fee set by the division, and such fee shall
13 be deposited in the endowed care cemetery audit fund as defined in section
14 193.265, RSMo. The fee authorized in this subsection shall not be required from
15 an existing nonendowed cemetery.

16 2. The division may adopt rules establishing the conditions and
17 procedures governing the circumstances where an endowed care cemetery elects
18 to operate as a nonendowed care cemetery. In the event an endowed care
19 cemetery elects to operate as a nonendowed care cemetery, the division shall
20 make every effort to require such cemetery to meet all contractual obligations for
21 the delivery of services entered into prior to it reverting to the status of a
22 nonendowed cemetery.

214.330. 1. The endowed care fund required by sections 214.270 to
2 214.410 shall be permanently set aside in trust or in accordance with the
3 provisions of subsection 2 of this section. The trustee of the endowed care trust
4 shall be a state- or federally chartered financial institution authorized to exercise
5 trust powers in Missouri and located in this state. The income from the endowed
6 care fund shall be distributed to the cemetery operator at least annually or in
7 other convenient installments. The cemetery operator shall have the duty and
8 responsibility to apply the income to provide care and maintenance only for that
9 part of the cemetery in which burial space shall have been sold and with respect
10 to which sales the endowed care fund shall have been established and not for any
11 other purpose. The principal of such funds shall be kept intact and appropriately
12 invested by the trustee, or the independent investment advisor. An endowed care
13 trust agreement may provide that when the principal in an endowed care trust
14 exceeds two hundred fifty thousand dollars, investment decisions regarding the
15 principal and undistributed income may be made by a federally registered or
16 Missouri-registered independent qualified investment advisor designated by the
17 cemetery owner, relieving the trustee of all liability regarding investment
18 decisions made by such qualified investment advisor. It shall be the duty of the
19 trustee, or the investment advisor, in the investment of such funds to exercise the
20 diligence and care men of ordinary prudence, intelligence and discretion would

21 employ, but with a view to permanency of investment considering probable safety
22 of capital investment, income produced and appreciation of capital
23 investment. The trustee's duties shall be the maintenance of records and the
24 accounting for and investment of moneys deposited by the operator to the
25 endowed care fund. For the purposes of sections 214.270 to 214.410, the trustee
26 or investment advisor shall not be deemed to be responsible for the care, the
27 maintenance, or the operation of the cemetery, or for any other matter relating
28 to the cemetery, including, but not limited to, compliance with environmental
29 laws and regulations. With respect to cemetery property maintained by cemetery
30 care funds, the cemetery operator shall be responsible for the performance of the
31 care and maintenance of the cemetery property owned by the cemetery operator
32 and for the opening and closing of all graves, crypts, or niches for human remains
33 in any cemetery property owned by the cemetery operator.

34 2. If the endowed care cemetery fund is not permanently set aside in a
35 trust fund as required by subsection 1 of this section then the funds shall be
36 permanently set aside in a segregated bank account which requires the signature
37 of the cemetery owner and either the administrator of the office of endowed care
38 cemeteries, or the signature of a licensed practicing attorney with escrow powers
39 in this state as joint signatories for any distribution from the trust fund. No
40 funds shall be expended without the signature of either the administrator of the
41 office of endowed care cemeteries, or a licensed practicing attorney with escrow
42 powers in this state. The account shall be insured by the Federal Deposit
43 Insurance Corporation or comparable deposit insurance and held in the state- or
44 federally chartered financial institution authorized to do business in Missouri and
45 located in this state. The income from the endowed care fund shall be distributed
46 to the cemetery operator at least in annual or semiannual installments. The
47 cemetery operator shall have the duty and responsibility to apply the income to
48 provide care and maintenance only for that part of the cemetery in which burial
49 space shall have been sold and with respect to which sales the endowed care fund
50 shall have been established and not for any other purpose. The principal of such
51 funds shall be kept intact and appropriately invested by the cemetery operator
52 with written approval of either the administrator of the office of endowed care
53 cemeteries or a licensed practicing attorney with escrow powers in this state. It
54 shall be the duty of the cemetery owner in the investment of such funds to
55 exercise the diligence and care a person of reasonable prudence, intelligence and
56 discretion would employ, but with a view to permanency of investment
57 considering probable safety of capital investment, income produced and
58 appreciation of capital investment. The cemetery owner's duties shall be the

59 maintenance of records and the accounting for an investment of moneys deposited
60 by the operator to the endowed care fund. For purposes of sections 214.270 to
61 214.410, the administrator of the office of endowed care cemeteries or the licensed
62 practicing attorney with escrow powers in this state shall not be deemed to be
63 responsible for the care, maintenance, or operation of the cemetery. With respect
64 to cemetery property maintained by cemetery care funds, the cemetery operator
65 shall be responsible for the performance of the care and maintenance of the
66 cemetery property owned by the cemetery operator and for the opening and
67 closing of all graves, crypts, or niches for human remains in any cemetery
68 property owned by the cemetery operator.

69 3. The cemetery operator shall be accountable to the owners of burial
70 space in the cemetery for compliance with sections 214.270 to 214.410.

71 4. All endowed care funds shall be administered in accordance with an
72 endowed care fund agreement. The endowed care fund agreement shall be subject
73 to review and approval by the office of endowed care cemeteries or by a licensed
74 practicing attorney with escrow powers in this state. The endowed care cemetery
75 shall be notified in writing by the office of endowed care cemeteries or by a
76 licensed practicing attorney with escrow powers in this state regarding the
77 approval or disapproval of the endowed care fund agreement and regarding any
78 changes required to be made for compliance with this chapter and the rules and
79 regulations promulgated thereunder. A copy of the proposed endowed care fund
80 agreement shall be submitted to the office of endowed care cemeteries. The office
81 of endowed care cemeteries or a licensed practicing attorney with escrow powers
82 in this state shall notify the endowed care cemetery in writing of approval and
83 of any required change. Any amendment or change to the endowed care fund
84 agreement shall be submitted to the office of endowed care cemeteries or to a
85 licensed practicing attorney with escrow powers in this state for review and
86 approval. Said amendment or change shall not be effective until approved by the
87 office of endowed care cemeteries or by a licensed practicing attorney with escrow
88 powers in this state. All endowed care cemeteries shall be under a continuing
89 duty to file with the office of endowed care cemeteries or with a licensed
90 practicing attorney with escrow powers in this state and to submit for approval
91 any and all changes, amendment, or revisions of the endowed care fund
92 agreement.

93 **5. No principal shall be distributed from an endowed care trust**
94 **fund except to the extent that a unitrust election is in effect with**
95 **respect to such trust under the provisions of section 469.411, RSMo.**

214.385. 1. If the operator of any cemetery or another authorized person

2 moves a grave marker, memorial or monument in the cemetery for any reason,
3 the operator or other authorized person shall replace the grave marker, memorial
4 or monument to its original position within a reasonable time.

5 2. When the purchase price of [a monument, marker or memorial] **an**
6 **item of burial merchandise** sold by a cemetery operator or its agent is paid
7 in full, the cemetery operator shall make delivery of such property within a
8 reasonable time. A cemetery operator may comply with this section by delivering
9 to the purchaser of such property a valid warehouse receipt which may be
10 presented to the cemetery operator at a later date for actual delivery.

214.387. 1. Upon written instructions from the purchaser of [a
2 monument, marker or memorial, a cemetery may defer delivery of such property
3 to a date designated by the purchaser, provided the cemetery operator, within
4 forty-five days of the date the property is paid in full, deposits from its own funds
5 an amount equal to one hundred ten percent of such property's wholesale cost
6 into a segregated account. Funds deposited in a segregated account pursuant to
7 this section and section 214.385 shall be maintained in such account until
8 delivery of the property is made or the contract for the purchase of such property
9 is canceled. No withdrawals may be made from the cemetery operator's
10 segregated account established pursuant to this section and section 214.385
11 except as provided herein. The cemetery operator shall not commingle any other
12 of its funds with the deposits made to the segregated account. Money in this
13 account shall be invested utilizing the "prudent man theory" and is subject to
14 audit by the division. Names and addresses of depositories of such money shall
15 be submitted with the annual report.] **burial merchandise or burial services**
16 **set forth in a cemetery prearranged contract, a cemetery may defer**
17 **delivery of such burial merchandise or a warehouse receipt for the**
18 **same under section 214.385, or performance of services, to a date**
19 **designated by the purchaser, provided the cemetery operator, after**
20 **deducting sales and administrative costs not to exceed twenty percent**
21 **of the purchase price, deposits the remaining portion of the purchase**
22 **price into an escrow or trust account as herein provided, within sixty**
23 **days following receipt of payment from the purchaser. Funds so**
24 **deposited pursuant to this section shall be maintained in such account**
25 **until delivery of the property or the performance of services is made**
26 **or the contract for the purchase of such property or services is**
27 **cancelled. The account is subject to inspection, examination or audit**
28 **by the division. No withdrawals may be made from the escrow or trust**
29 **account established pursuant to this section except as herein provided.**

30 2. [If at the end of a calendar year the market value of the cemetery
31 operator's segregated account exceeds the then current wholesale cost of all
32 paid-in-full property which has not been delivered, the cemetery operator may
33 withdraw from the segregated account all realized income earned by such account.
34 If at the end of a calendar year the market value of the cemetery operator's
35 segregated account is less than the then current wholesale cost of all paid-in-full
36 property which has not been delivered, the cemetery operator shall only withdraw
37 the realized income in excess of (i) the segregated account's market value at year
38 end, plus (ii) all realized income accrued to the segregated account minus (iii) the
39 wholesale cost of all paid-in-full property which has not been delivered.

40 3. Upon the delivery of a monument, marker or memorial sold by the
41 cemetery or its agent, or the cancellation of the contract for the purchase of such
42 property, the cemetery operator may withdraw from the segregated account an
43 amount equal to (i) the market value of the segregated account based on the most
44 recent account statement issued to the cemetery operator, times (ii) the ratio the
45 delivered property's deposit in the account bears to the aggregate deposit of all
46 property which is paid in full but not delivered. The segregated account may be
47 inspected or audited by the division.

48 4.] Upon written instructions from the purchaser of an interment,
49 entombment, or inurnment cemetery service, a cemetery may defer performance
50 of such service to a date designated by the purchaser, provided the cemetery
51 operator, within forty-five days of the date the agreement is paid in full, deposits
52 from its own funds an amount equal to [forty] **eighty** percent of the published
53 retail price into a trustee account. Funds deposited in a trustee account
54 pursuant to this section and section 214.385 shall be maintained in such account
55 until delivery of the service is made or the agreement for the purchase of the
56 service is canceled. No withdrawals may be made from the trustee account
57 established pursuant to this section and section 214.385 except as provided
58 herein. Money in this account shall be invested utilizing the "prudent man
59 theory" and is subject to audit by the division. Names and addresses of
60 depositories of such money shall be submitted with the annual report.

61 [5.] 3. Upon the delivery of the interment, entombment, or inurnment
62 cemetery service agreed upon by the cemetery or its agent, or the cancellation of
63 the agreement for the purchase of such service, the cemetery operator may
64 withdraw from the trustee account an amount equal to (i) the market value of
65 the trustee account based on the most recent account statement issued to the
66 cemetery operator, times (ii) the ratio the service's deposit in the account bears
67 to the aggregate deposit of all services which are paid in full but not

68 delivered. The trustee account may be inspected or audited by the division.

69 [6.] 4. The provisions of this section shall apply to all agreements entered
70 into after August 28, 2002.

324.001. 1. For the purposes of this section, the following terms mean:

2 (1) "Department", the department of insurance, financial institutions and
3 professional registration;

4 (2) "Director", the director of the division of professional registration; and

5 (3) "Division", the division of professional registration.

6 2. There is hereby established a "Division of Professional Registration"
7 assigned to the department of insurance, financial institutions and professional
8 registration as a type III transfer, headed by a director appointed by the governor
9 with the advice and consent of the senate. All of the general provisions,
10 definitions and powers enumerated in section 1 of the Omnibus State
11 Reorganization Act of 1974 and Executive Order 06-04 shall apply to this
12 department and its divisions, agencies, and personnel.

13 3. The director of the division of professional registration shall promulgate
14 rules and regulations which designate for each board or commission assigned to
15 the division the renewal date for licenses or certificates. After the initial
16 establishment of renewal dates, no director of the division shall promulgate a rule
17 or regulation which would change the renewal date for licenses or certificates if
18 such change in renewal date would occur prior to the date on which the renewal
19 date in effect at the time such new renewal date is specified next occurs. Each
20 board or commission shall by rule or regulation establish licensing periods of one,
21 two, or three years. Registration fees set by a board or commission shall be
22 effective for the entire licensing period involved, and shall not be increased
23 during any current licensing period. Persons who are required to pay their first
24 registration fees shall be allowed to pay the pro rata share of such fees for the
25 remainder of the period remaining at the time the fees are paid. Each board or
26 commission shall provide the necessary forms for initial registration, and
27 thereafter the director may prescribe standard forms for renewal of licenses and
28 certificates. Each board or commission shall by rule and regulation require each
29 applicant to provide the information which is required to keep the board's records
30 current. **Each board or commission shall have the authority to collect**
31 **and analyze information required to support workforce planning and**
32 **policy development. Such information shall not be publicly disclosed**
33 **so as to identify a specific health care provider, as defined in section**
34 **376.1350, RSMo.** Each board or commission shall issue the original license or
35 certificate.

36 4. The division shall provide clerical and other staff services relating to
37 the issuance and renewal of licenses for all the professional licensing and
38 regulating boards and commissions assigned to the division. The division shall
39 perform the financial management and clerical functions as they each relate to
40 issuance and renewal of licenses and certificates. "Issuance and renewal of
41 licenses and certificates" means the ministerial function of preparing and
42 delivering licenses or certificates, and obtaining material and information for the
43 board or commission in connection with the renewal thereof. It does not include
44 any discretionary authority with regard to the original review of an applicant's
45 qualifications for licensure or certification, or the subsequent review of licensee's
46 or certificate holder's qualifications, or any disciplinary action contemplated
47 against the licensee or certificate holder. The division may develop and
48 implement microfilming systems and automated or manual management
49 information systems.

50 5. The director of the division shall maintain a system of accounting and
51 budgeting, in cooperation with the director of the department, the office of
52 administration, and the state auditor's office, to ensure proper charges are made
53 to the various boards for services rendered to them. The general assembly shall
54 appropriate to the division and other state agencies from each board's funds
55 moneys sufficient to reimburse the division and other state agencies for all
56 services rendered and all facilities and supplies furnished to that board.

57 6. For accounting purposes, the appropriation to the division and to the
58 office of administration for the payment of rent for quarters provided for the
59 division shall be made from the "Professional Registration Fees Fund", which is
60 hereby created, and is to be used solely for the purpose defined in subsection 5
61 of this section. The fund shall consist of moneys deposited into it from each
62 board's fund. Each board shall contribute a prorated amount necessary to fund
63 the division for services rendered and rent based upon the system of accounting
64 and budgeting established by the director of the division as provided in
65 subsection 5 of this section. Transfers of funds to the professional registration
66 fees fund shall be made by each board on July first of each year; provided,
67 however, that the director of the division may establish an alternative date or
68 dates of transfers at the request of any board. Such transfers shall be made until
69 they equal the prorated amount for services rendered and rent by the
70 division. The provisions of section 33.080, RSMo, to the contrary
71 notwithstanding, money in this fund shall not be transferred and placed to the
72 credit of general revenue.

73 7. The director of the division shall be responsible for collecting and

74 accounting for all moneys received by the division or its component agencies. Any
75 money received by a board or commission shall be promptly given, identified by
76 type and source, to the director. The director shall keep a record by board and
77 state accounting system classification of the amount of revenue the director
78 receives. The director shall promptly transmit all receipts to the department of
79 revenue for deposit in the state treasury to the credit of the appropriate
80 fund. The director shall provide each board with all relevant financial
81 information in a timely fashion. Each board shall cooperate with the director by
82 providing necessary information.

83 8. All educational transcripts, test scores, complaints, investigatory
84 reports, and information pertaining to any person who is an applicant or licensee
85 of any agency assigned to the division of professional registration by statute or
86 by the department are confidential and may not be disclosed to the public or any
87 member of the public, except with the written consent of the person whose records
88 are involved. The agency which possesses the records or information shall
89 disclose the records or information if the person whose records or information is
90 involved has consented to the disclosure. Each agency is entitled to the
91 attorney-client privilege and work-product privilege to the same extent as any
92 other person. Provided, however, that any board may disclose confidential
93 information without the consent of the person involved in the course of voluntary
94 interstate exchange of information, or in the course of any litigation concerning
95 that person, or pursuant to a lawful request, or to other administrative or law
96 enforcement agencies acting within the scope of their statutory
97 authority. Information regarding identity, including names and addresses,
98 registration, and currency of the license of the persons possessing licenses to
99 engage in a professional occupation and the names and addresses of applicants
100 for such licenses is not confidential information.

101 9. Any deliberations conducted and votes taken in rendering a final
102 decision after a hearing before an agency assigned to the division shall be closed
103 to the parties and the public. Once a final decision is rendered, that decision
104 shall be made available to the parties and the public.

105 10. A compelling governmental interest shall be deemed to exist for the
106 purposes of section 536.025, RSMo, for licensure fees to be reduced by emergency
107 rule, if the projected fund balance of any agency assigned to the division of
108 professional registration is reasonably expected to exceed an amount that would
109 require transfer from that fund to general revenue.

110 11. (1) The following boards and commissions are assigned by specific
111 type transfers to the division of professional registration: Missouri state board of

112 accountancy, chapter 326, RSMo; board of cosmetology and barber examiners,
113 chapters 328 and 329, RSMo; [state board of registration] **Missouri board** for
114 architects, professional engineers [and], professional land surveyors and
115 landscape architects, chapter 327, RSMo; **Missouri** state board of chiropractic
116 examiners, chapter 331, RSMo; state board of registration for the healing arts,
117 chapter 334, RSMo; Missouri dental board, chapter 332, RSMo; state board of
118 embalmers and funeral directors, chapter 333, RSMo; state board of optometry,
119 chapter 336, RSMo; **Missouri** state board of nursing, chapter 335, RSMo; board
120 of pharmacy, chapter 338, RSMo; state board of [podiatry] **podiatric medicine**,
121 chapter 330, RSMo; Missouri real estate **appraisers** commission, chapter 339,
122 RSMo; and Missouri veterinary medical board, chapter 340, RSMo. The governor
123 shall appoint members of these boards by and with the advice and consent of the
124 senate.

125 (2) The boards and commissions assigned to the division shall exercise all
126 their respective statutory duties and powers, except those clerical and other staff
127 services involving collecting and accounting for moneys and financial
128 management relating to the issuance and renewal of licenses, which services shall
129 be provided by the division, within the appropriation therefor. Nothing herein
130 shall prohibit employment of professional examining or testing services from
131 professional associations or others as required by the boards or commissions on
132 contract. Nothing herein shall be construed to affect the power of a board or
133 commission to expend its funds as appropriated. However, the division shall
134 review the expense vouchers of each board. The results of such review shall be
135 submitted to the board reviewed and to the house and senate appropriations
136 committees annually.

137 (3) Notwithstanding any other provisions of law, the director of the
138 division shall exercise only those management functions of the boards and
139 commissions specifically provided in the Reorganization Act of 1974, and those
140 relating to the allocation and assignment of space, personnel other than board
141 personnel, and equipment.

142 (4) "Board personnel", as used in this section or chapters 317, 326, 327,
143 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, and 345, RSMo,
144 shall mean personnel whose functions and responsibilities are in areas not
145 related to the clerical duties involving the issuance and renewal of licenses, to the
146 collecting and accounting for moneys, or to financial management relating to
147 issuance and renewal of licenses; specifically included are executive secretaries
148 (or comparable positions), consultants, inspectors, investigators, counsel, and
149 secretarial support staff for these positions; and such other positions as are

150 established and authorized by statute for a particular board or
151 commission. Boards and commissions may employ legal counsel, if authorized by
152 law, and temporary personnel if the board is unable to meet its responsibilities
153 with the employees authorized above. Any board or commission which hires
154 temporary employees shall annually provide the division director and the
155 appropriation committees of the general assembly with a complete list of all
156 persons employed in the previous year, the length of their employment, the
157 amount of their remuneration, and a description of their responsibilities.

158 (5) Board personnel for each board or commission shall be employed by
159 and serve at the pleasure of the board or commission, shall be supervised as the
160 board or commission designates, and shall have their duties and compensation
161 prescribed by the board or commission, within appropriations for that purpose,
162 except that compensation for board personnel shall not exceed that established
163 for comparable positions as determined by the board or commission pursuant to
164 the job and pay plan of the department of insurance, financial institutions and
165 professional registration. Nothing herein shall be construed to permit salaries
166 for any board personnel to be lowered except by board action.

167 12. All the powers, duties, and functions of the division of athletics,
168 chapter 317, RSMo, and others, are assigned by type I transfer to the division of
169 professional registration.

170 13. Wherever the laws, rules, or regulations of this state make reference
171 to the "division of professional registration of the department of economic
172 development", such references shall be deemed to refer to the division of
173 professional registration.

324.065. 1. The board shall elect annually a chairperson and a vice
2 chairperson from their number.

3 2. (1) The [division, in collaboration with the] board[,] shall adopt,
4 implement, rescind, amend and administer such rules and regulations as may be
5 necessary to carry out the provisions of sections 324.050 to 324.089. The
6 [division, in collaboration with the] board[,] may promulgate necessary rules
7 compatible with sections 324.050 to 324.089, including, but not limited to, rules
8 relating to professional conduct, continuing competency requirements for renewal
9 of licenses, approval of continuing competency programs and to the establishment
10 of ethical standards of practice for persons holding a license or permit to practice
11 occupational therapy in this state.

12 (2) The board shall establish all applicable fees and set an
13 amount which shall not substantially exceed the cost of administering
14 sections 324.050 to 324.089.

15 **(3) The board shall approve or disapprove certifying entities for**
16 **the profession of occupational therapy included in the scope of sections**
17 **324.050 to 324.089.**

18 **(4) The board may terminate recognition of any certifying entity**
19 **included in the scope of sections 324.050 to 324.089 following a**
20 **subsequent review of the certification of registration procedures of a**
21 **certifying entity.**

22 3. The board shall convene at the request of the director or as the board
23 shall determine. The board shall hold regular meetings at least four times per
24 year.

25 4. Each member of the board shall receive as compensation, an amount
26 set by the division not to exceed fifty dollars per day, for each day devoted to the
27 affairs of the board and may be reimbursed for actual and necessary expenses
28 incurred in the performance of the member's official duties.

29 5. No rule or portion of a rule promulgated pursuant to the authority of
30 sections 324.050 to 324.089 shall become effective unless it has been promulgated
31 pursuant to the provisions of section 536.024, RSMo.

 324.068. For the purpose of sections 324.050 to 324.089, the division shall:

2 (1) Employ, within the limits of the appropriations for that purpose,
3 employees as are necessary to carry out the provisions of sections 324.050 to
4 324.089;

5 (2) Exercise all administrative functions; **and**

6 (3) [Establish all applicable fees; set at an amount which shall not
7 substantially exceed the cost of administering sections 324.050 to 324.089;

8 (4)] Deposit all fees collected pursuant to sections 324.050 to 324.089, by
9 transmitting such funds to the department of revenue for deposit to the state
10 treasury to the credit of the Missouri board of occupational therapy fund[;

11 (5) Approve or disapprove certifying entities for the profession of
12 occupational therapy included in the scope of sections 324.050 to 324.089; and

13 (6) The division may terminate recognition of any certifying entity
14 included in the scope of sections 324.050 to 324.089 following a subsequent review
15 of the certification of registration procedures of a certifying entity].

 324.071. 1. The applicant applying for a license to practice occupational
2 therapy shall provide evidence of being initially certified by a certifying entity
3 and has completed an application for licensure and all applicable fees have been
4 paid.

5 2. The certification requirement shall be waived for those persons who
6 hold a current registration by the [division] **board** as an occupational therapist

7 or occupational therapy assistant on August 28, 1997, provided that this
8 application is made on or before October 31, 1997, and all applicable fees have
9 been paid. All other requirements of sections 324.050 to 324.089 must be
10 satisfied.

11 3. The person shall have no violations, suspensions, revocation or pending
12 complaints for violation of regulations from a certifying entity or any
13 governmental regulatory agency in the past five years.

14 4. The [division, in collaboration with the] board[,] may negotiate
15 reciprocal contracts with other states, the District of Columbia, or territories of
16 the United States which require standards for licensure, registration or
17 certification considered to be equivalent or more stringent than the requirements
18 for licensure pursuant to sections 324.050 to 324.089.

324.077. The [division, in collaboration with the] board[,] may issue a
2 limited permit, upon the payment of applicable fees and completion of the
3 required application, to a person who sufficiently provides proof of eligibility to
4 set for the first available examination upon completion of all other necessary
5 requirements for certification by the certifying entity. The limited permit shall
6 allow the person to practice occupational therapy under the supervision of a
7 person currently licensed pursuant to sections 324.050 to 324.089. A limited
8 permit shall only be effective up to but not to exceed the time the results of the
9 second available examination are received by the board unless the person
10 successfully passes the examination in which instance the limited permit shall
11 remain valid for an additional sixty days.

324.080. 1. The division shall mail a renewal notice to the last known
2 address of each licensee prior to the renewal date. Failure to provide the division
3 with the information required for renewal or to pay the required fee after such
4 notice shall result in the license being declared inactive and the licensee shall not
5 practice occupational therapy until he or she applies for reinstatement and pays
6 the required fees. The license shall be restored if the application is received
7 within two years of the renewal date.

8 2. Upon request, the division, in collaboration with the board, may grant
9 inactive status to a licensee, if the person:

- 10 (1) Does not practice occupational therapy in the state of Missouri;
11 (2) Does not hold himself or herself out as an occupational therapist or an
12 occupational therapy assistant in the state of Missouri;
13 (3) Maintains any continuing competency requirements established by the
14 [division, in collaboration with the] board; and
15 (4) Remits any fee that may be required.

324.086. 1. The board may refuse to issue or renew any certificate of
2 registration or authority, permit or license required pursuant to sections 324.050
3 to 324.089 for one or any combination of causes stated in subsection 2 of this
4 section. The board shall notify the applicant in writing of the reasons for the
5 refusal and shall advise the applicant of his or her right to file a complaint with
6 the administrative hearing commission as provided by chapter 621, RSMo.

7 2. The board may cause a complaint to be filed with the administrative
8 hearing commission as provided by chapter 621, RSMo, against any holder of any
9 certificate of registration or authority, permit or license required by sections
10 324.050 to 324.089 or any person who has failed to renew or has surrendered his
11 or her certificate of registration or authority, permit or license for any one or any
12 combination of the following causes:

13 (1) Use or unlawful possession of any controlled substance, as defined in
14 chapter 195, RSMo, or alcoholic beverage to an extent that such use impairs a
15 person's ability to perform the work of an occupational therapist or occupational
16 therapy assistant;

17 (2) The person has been finally adjudicated and found guilty, or entered
18 a plea of guilty or nolo contendere, in a criminal prosecution under the laws of
19 any state or of the United States, for any offense reasonably related to the
20 qualifications, functions or duties of any profession licensed or regulated by
21 sections 324.050 to 324.089, for any offense an essential element of which is
22 fraud, dishonesty or an act of violence, or for any offense involving moral
23 turpitude, whether or not sentence is imposed;

24 (3) Use of fraud, deception, misrepresentation or bribery in securing any
25 certificate of registration or authority, permit or license issued pursuant to
26 sections 324.050 to 324.089 or in obtaining permission to take any examination
27 given or required pursuant to sections 324.050 to 324.089;

28 (4) Obtaining or attempting to obtain any fee, charge, tuition or other
29 compensation by fraud, deception or misrepresentation;

30 (5) Incompetency, misconduct, gross negligence, fraud, misrepresentation
31 or dishonesty in the performance of the functions and duties of any profession
32 licensed or regulated by sections 324.050 to 324.089;

33 (6) Violation of, or assisting or enabling any person to violate, any
34 provision of sections 324.050 to 324.089 or any lawful rule or regulation adopted
35 pursuant to sections 324.050 to 324.089;

36 (7) Impersonation of any person holding a certificate of registration or
37 authority, permit or license or allowing any person to use his or her certificate of
38 registration or authority, permit, license or diploma from any school;

39 (8) Disciplinary action against the holder of a license or other right to
40 practice any profession regulated by sections 324.050 to 324.089 granted by
41 another state, territory, federal agency or country upon grounds for which
42 revocation or suspension is authorized in this state;

43 (9) A person is finally adjudged insane or incompetent by a court of
44 competent jurisdiction;

45 (10) Assisting or enabling any person to practice or offer to practice any
46 profession licensed or regulated by sections 324.050 to 324.089 who is not
47 registered and currently eligible to practice pursuant to sections 324.050 to
48 324.089;

49 (11) Issuance of a certificate of registration or authority, permit or license
50 based upon a material mistake of fact;

51 (12) Violation of any professional trust or confidence;

52 (13) Use of any advertisement or solicitation which is false, misleading or
53 deceptive to the general public or persons to whom the advertisement or
54 solicitation is primarily directed;

55 (14) Unethical conduct as defined in the ethical standards for occupational
56 therapists and occupational therapy assistants adopted by the [division] **board**
57 and filed with the secretary of state;

58 (15) Violation of the drug laws or rules and regulations of this state, any
59 other state or federal government.

60 3. After the filing of such complaint, the proceedings shall be conducted
61 in accordance with the provisions of chapter 621, RSMo. Upon a finding by the
62 administrative hearing commission that the grounds provided in subsection 2 of
63 this section for disciplinary action are met, the board may, singly or in
64 combination, censure or place the person named in the complaint on probation
65 with such terms and conditions as the board deems appropriate for a period not
66 to exceed five years, or may suspend, for a period not to exceed three years, or
67 may revoke the license, certificate or permit.

68 4. An individual whose license has been revoked shall wait at least one
69 year from the date of revocation to apply for relicensure. Relicensure shall be at
70 the discretion of the board after compliance with all requirements of sections
71 324.050 to 324.089 relative to the licensing of the applicant for the first time.

324.089. 1. Any person or corporation who knowingly violates any
2 provision of sections 324.050 to 324.089 is guilty of a class B misdemeanor.

3 2. Any officer or agent of a corporation or member or agent of a
4 partnership or association, who knowingly and personally participates in, or is
5 an accessory to, any violation of sections 324.050 to 324.089 is guilty of a class B

6 misdemeanor.

7 3. The provisions of this section shall not be construed to release any
8 person from civil liability or criminal prosecution pursuant to any other law of
9 this state.

10 4. The [division, in collaboration with the] board[,] may cause a complaint
11 to be filed for any violation of sections 324.050 to 324.089 in any court of
12 competent jurisdiction and perform such other acts as may be necessary to
13 enforce the provisions of sections 324.050 to 324.089.

 324.139. 1. To qualify for a license, an applicant shall pass a competency
2 examination given by the American Board of Cardiovascular Perfusion or its
3 successor organization.

4 2. Not later than forty-five days after the date on which a licensing
5 examination is administered pursuant to sections 324.125 to 324.183, the
6 [division] **board** shall notify each examinee of the results of the examination.

7 3. The board by rule shall establish:

8 (1) A limit on the number of times an applicant who fails an examination
9 may retake the examination; and

10 (2) The requirements for reexamination and the amount of any
11 reexamination fee.

 324.141. A person licensed pursuant to the provisions of sections 324.125
2 to 324.183 shall display the license certificate issued pursuant to sections 324.125
3 to 324.183 in a prominent place at the site, location or office from which such
4 person practices such person's profession or such license holder shall maintain
5 on file at all times during which the license holder provides services in a health
6 care facility a true and correct copy of the license certificate in the appropriate
7 records of the facility. A license holder shall inform the [division] **board** of any
8 change of address for the license holder. A license certificate issued by the board
9 is the property of the board and shall be surrendered upon demand.

 324.212. 1. Applications for licensure as a dietitian shall be in writing,
2 submitted to the committee on forms prescribed by the [division] **committee** and
3 furnished to the applicant. The application shall contain the applicant's
4 statements showing the applicant's education, experience and such other
5 information as the committee may require. Each application shall contain a
6 statement that it is made under oath or affirmation and that the information
7 contained therein is true and correct to the best knowledge and belief of the
8 applicant, subject to the penalties provided for the making of a false affidavit or
9 declaration. Each application shall be accompanied by the fees required by the
10 committee.

11 2. The division shall mail a renewal notice to the last known address of
12 each licensee prior to the renewal date. Failure to provide the committee with
13 the information required for renewal, or to pay the renewal fee after such notice
14 shall effect a noncurrent license. The license shall be reinstated if, within two
15 years of the renewal date, the applicant submits the required documentation and
16 pays the applicable fees as approved by the committee.

17 3. A new license to replace any license lost, destroyed or mutilated may
18 be issued subject to the rules of the committee upon payment of a fee.

19 4. The committee shall set by rule the appropriate amount of fees
20 authorized herein. The fees shall be set at a level to produce revenue which shall
21 not exceed the cost and expense of administering the provisions of sections
22 324.200 to 324.225. All fees provided for in sections 324.200 to 324.225 shall be
23 collected by the director who shall transmit the funds to the director of revenue
24 to be deposited in the state treasury to the credit of the "Dietitian Fund" which
25 is hereby created.

26 5. The provisions of section 33.080, RSMo, to the contrary
27 notwithstanding, money in this fund shall not be transferred and placed to the
28 credit of general revenue until the amount in the fund at the end of the biennium
29 exceeds three times the amount of the appropriation from the dietitian fund for
30 the preceding fiscal year. The amount, if any, in the fund which shall lapse is
31 that amount in the fund which exceeds the appropriate multiple of the
32 appropriations from the dietitian fund for the preceding fiscal year.

 324.247. A person desiring to receive a license to operate a massage
2 business in the state of Missouri shall file a written application with the board
3 on a form prescribed by the [division] **board** and pay the appropriate required
4 fee. It shall be unlawful for a business to employ or contract with any person in
5 this state to provide massage therapy as defined in subdivision (7) of section
6 324.240 unless such person has obtained a license as provided by this
7 chapter. Failure to comply with the provisions of this section shall be cause to
8 discipline the licensee.

 324.415. Applications for registration as a registered interior designer
2 shall be typewritten on forms prescribed by the [division] **council** and furnished
3 to the applicant. The application shall contain the applicant's statements
4 showing the applicant's education, experience, results of previous interior design
5 certification, registration or licensing examinations, if any, and such other
6 pertinent information as the council may require, or architect's registration
7 number and such other pertinent information as the council may require. Each
8 application shall contain a statement that is made under oath or affirmation and

9 that the representations are true and correct to the best knowledge and belief of
10 the person signing the application. The person shall be subject to the penalties
11 for making a false affidavit or declaration and shall be accompanied by the
12 required fee.

324.481. 1. The board shall upon recommendation of the committee
2 license applicants who meet the qualifications for acupuncturists, who file for
3 licensure, and who pay all fees required for this licensure.

4 2. [The division shall:

5 (1) Prescribe the design of all forms to be furnished to all persons seeking
6 licensure pursuant to sections 324.475 to 324.499;

7 (2) Prescribe the form and design of the license to be issued pursuant to
8 sections 324.475 to 324.499.

9 3.] The board shall:

10 (1) Maintain a record of all board and committee proceedings regarding
11 sections 324.475 to 324.499 and of all acupuncturists licensed in this state;

12 (2) Annually prepare a roster of the names and addresses of all
13 acupuncturists licensed in this state, copies of which shall be made available
14 upon request to any person paying the fee therefor;

15 (3) Set the fee for the roster at an amount sufficient to cover the actual
16 cost of publishing and distributing the roster;

17 (4) Adopt an official seal;

18 (5) **Prescribe the design of all forms to be furnished to all**
19 **persons seeking licensure under sections 324.475 to 324.499;**

20 (6) **Prescribe the form and design of the license to be issued**
21 **under sections 324.475 to 324.499;**

22 (7) Inform licensees of any changes in policy, rules or regulations;

23 [(6)] (8) Upon the recommendation of the committee, set all fees, by rule,
24 necessary to administer the provisions of sections 324.475 to 324.499.

25 [4.] 3. The board may with the approval of the advisory committee:

26 (1) Issue subpoenas to compel witnesses to testify or produce evidence in
27 proceedings to deny, suspend or revoke licensure;

28 (2) Promulgate rules pursuant to chapter 536, RSMo, in order to carry out
29 the provisions of sections 324.475 to 324.499 including, but not limited to,
30 regulations establishing:

31 (a) Standards for the practice of acupuncture;

32 (b) Standards for ethical conduct in the practice of acupuncture;

33 (c) Standards for continuing professional education;

34 (d) Standards for the training and practice of auricular detox technicians,

35 including specific enumeration of points which may be used.

36 [5.] 4. Any rule or portion of a rule, as that term is defined in section
37 536.010, RSMo, that is promulgated to administer and enforce sections 324.475
38 to 324.499, shall become effective only if the agency has fully complied with all
39 of the requirements of chapter 536, RSMo, including but not limited to, section
40 536.028, RSMo, if applicable, after August 28, 1998. If the provisions of section
41 536.028, RSMo, apply, the provisions of this section are nonseverable and if any
42 of the powers vested with the general assembly pursuant to section 536.028,
43 RSMo, to review, to delay the effective date, or to disapprove and annul a rule or
44 portion of a rule are held unconstitutional or invalid, the purported grant of
45 rulemaking authority and any rule so proposed and contained in the order of
46 rulemaking shall be invalid and void, except that nothing in this section shall
47 affect the validity of any rule adopted and promulgated prior to August 28, 1998.

48 [6.] 5. All funds received by the board pursuant to the provisions of
49 sections 324.240 to 324.275 shall be collected by the director who shall transmit
50 the funds to the department of revenue for deposit in the state treasury to the
51 credit of the "Acupuncturist Fund" which is hereby created.

52 [7.] 6. Notwithstanding the provisions of section 33.080, RSMo, to the
53 contrary, money in this fund shall not be transferred and placed to the credit of
54 general revenue until the amount in the fund at the end of the biennium exceeds
55 three times the amount of the appropriation from the acupuncturist fund for the
56 preceding fiscal year. The amount, if any, in the fund which shall lapse is that
57 amount in the fund which exceeds the appropriate multiple of the appropriations
58 from the acupuncturist fund for the preceding fiscal year.

324.487. 1. It is unlawful for any person to practice acupuncture in this
2 state, unless such person:

3 (1) Possesses a valid license issued by the board pursuant to sections
4 324.475 to 324.499; or

5 (2) Is engaged in a supervised course of study that has been authorized
6 by the committee approved by the board, and is designated and identified by a
7 title that clearly indicates status as a trainee, and is under the supervision of a
8 licensed acupuncturist.

9 2. A person may be licensed to practice acupuncture in this state if the
10 applicant:

11 (1) Is twenty-one years of age or older and meets one of the following
12 requirements:

13 (a) Is actively certified as a Diplomate in Acupuncture by the National
14 Commission for the Certification of Acupuncture and Oriental Medicine; or

15 (b) Is actively licensed, certified or registered in a state or jurisdiction of
16 the United States which has eligibility and examination requirements that are
17 at least equivalent to those of the National Commission for the Certification of
18 Acupuncture and Oriental Medicine, as determined by the committee and
19 approved by the board; and

20 (2) Submits to the committee an application on a form prescribed by the
21 [division] **committee**; and

22 (3) Pays the appropriate fee.

23 3. The board shall issue a certificate of licensure to each individual who
24 satisfies the requirements of subsection 2 of this section, certifying that the
25 holder is authorized to practice acupuncture in this state. The holder shall have
26 in his or her possession at all times while practicing acupuncture, the license
27 issued pursuant to sections 324.475 to 324.499.

**327.442. 1. At such time as the final trial proceedings are
2 concluded whereby a licensee, or any person who has failed to renew
3 or has surrendered his or her certificate of licensure or authority, has
4 been adjudicated and found guilty, or has entered a plea of guilty or
5 nolo contendere, in a felony prosecution pursuant to the laws of this
6 state, the laws of any other state, territory, or the laws of the United
7 States of America for any offense reasonably related to the
8 qualifications, functions, or duties of a licensee pursuant to this
9 chapter or any felony offense, an essential element of which is fraud,
10 dishonesty, or an act of violence, or for any felony offense involving
11 moral turpitude, whether or not sentence is imposed, the board for
12 architects, professional engineers, professional land surveyors and
13 landscape architects may hold a disciplinary hearing to singly or in
14 combination censure or place the licensee named in the complaint on
15 probation on such terms and conditions as the board deems
16 appropriate for a period not to exceed five years, or may suspend, for
17 a period not to exceed three years, or revoke the license or certificate.**

**18 2. Anyone who has been revoked or denied a license or
19 certificate to practice in another state may automatically be denied a
20 license or certificate to practice in this state. However, the board for
21 architects, professional engineers, professional land surveyors and
22 landscape architects may establish other qualifications by which a
23 person may ultimately be qualified and licensed to practice in Missouri.**

328.115. 1. The owner of every [shop or] establishment in which the
2 occupation of barbering is practiced shall obtain a license for such [shop or]

3 establishment issued by the board before barbering is practiced therein. A new
4 license shall be obtained for a barber establishment within forty-five days when
5 the establishment changes ownership or location. The state inspector shall
6 inspect the sanitary conditions required for licensure, established under
7 subsection 2 of this section, for an establishment that has changed ownership or
8 location without requiring the owner to close business or deviate in any way from
9 the establishment's regular hours of operation.

10 2. The board shall issue a license for a [shop or] establishment upon
11 receipt of the license fee from the applicant if the board finds that the [shop or]
12 establishment complies with the sanitary regulations adopted pursuant to section
13 **[328.060] 329.025, RSMo**. All barber establishments shall continue to comply
14 with the sanitary regulations. Failure of a barber establishment to comply with
15 the sanitary regulations shall be grounds for the board to file a complaint with
16 the administrative hearing commission to revoke, suspend, or censure the
17 establishment's license or place the establishment's license on probation.

18 3. The license for a barber establishment shall be renewable. The
19 applicant for renewal of the license shall on or before the renewal date submit the
20 completed renewal application accompanied by the required renewal fee. If the
21 renewal application and fee are not submitted within thirty days following the
22 renewal date, a penalty fee plus the renewal fee shall be paid to renew the
23 license. If a new establishment opens any time during the licensing period and
24 does not register a license before opening, there shall be a delinquent fee in
25 addition to the regular fee. The license shall be kept posted in plain view within
26 the barber establishment at all times.

328.150. 1. The board may refuse to issue any certificate of registration
2 or authority, permit or license required pursuant to this chapter for one or any
3 combination of causes stated in subsection 2 of this section. The board shall
4 notify the applicant in writing of the reasons for the refusal and shall advise the
5 applicant of his right to file a complaint with the administrative hearing
6 commission as provided by chapter 621, RSMo.

7 2. The board may cause a complaint to be filed with the administrative
8 hearing commission as provided by chapter **[161] 621, RSMo**, against any holder
9 of any certificate of registration or authority, permit or license required by this
10 chapter or any person who has failed to renew or has surrendered his certificate
11 of registration or authority, permit or license for any one or any combination of
12 the following causes:

13 (1) Use of any controlled substance, as defined in chapter 195, RSMo, or
14 alcoholic beverage to an extent that such use impairs a person's ability to perform

15 the work of any profession licensed or regulated by this chapter;

16 (2) The person has been finally adjudicated and found guilty, or entered
17 a plea of guilty or nolo contendere, in a criminal prosecution under the laws of
18 any state or of the United States, for any offense reasonably related to the
19 qualifications, functions or duties of any profession licensed or regulated under
20 this chapter, for any offense an essential element of which is fraud, dishonesty
21 or an act of violence, or for any offense involving moral turpitude, whether or not
22 sentence is imposed;

23 (3) Use of fraud, deception, misrepresentation or bribery in securing any
24 certificate of registration or authority, permit or license issued pursuant to this
25 chapter or in obtaining permission to take any examination given or required
26 pursuant to this chapter;

27 (4) Obtaining or attempting to obtain any fee, charge, tuition or other
28 compensation by fraud, deception or misrepresentation;

29 (5) Incompetency, misconduct, gross negligence, fraud, misrepresentation
30 or dishonesty in the performance of the functions or duties of any profession
31 licensed or regulated by this chapter;

32 (6) Violation of, or assisting or enabling any person to violate, any
33 provision of this chapter, or of any lawful rule or regulation adopted pursuant to
34 this chapter;

35 (7) Impersonation of any person holding a certificate of registration or
36 authority, permit or license or allowing any person to use his or her certificate of
37 registration or authority, permit, license or diploma from any school;

38 (8) Disciplinary action against the holder of a license or other right to
39 practice any profession regulated by this chapter granted by another state,
40 territory, federal agency or country upon grounds for which revocation or
41 suspension is authorized in this state;

42 (9) A person is finally adjudged insane or incompetent by a court of
43 competent jurisdiction;

44 (10) Assisting or enabling any person to practice or offer to practice any
45 profession licensed or regulated by this chapter who is not registered and
46 currently eligible to practice under this chapter;

47 (11) Issuance of a certificate of registration or authority, permit or license
48 based upon a material mistake of fact;

49 (12) Failure to display a valid certificate or license if so required by this
50 chapter or any rule promulgated hereunder;

51 (13) Violation of any professional trust or confidence;

52 (14) Use of any advertisement or solicitation which is false, misleading or

53 deceptive to the general public or persons to whom the advertisement or
54 solicitation is primarily directed;

55 (15) Failure or refusal to properly guard against contagious, infectious or
56 communicable diseases or the spread thereof.

57 3. After the filing of such complaint, the proceedings shall be conducted
58 in accordance with the provisions of chapter 621, RSMo. Upon a finding by the
59 administrative hearing commission that the grounds, provided in subsection 2,
60 for disciplinary action are met, the board may, singly or in combination, censure
61 or place the person named in the complaint on probation on such terms and
62 conditions as the board deems appropriate for a period not to exceed five years,
63 or may suspend, for a period not to exceed three years, or revoke the license,
64 certificate, or permit.

328.160. Any person practicing the occupation of barbering without having
2 obtained a license as provided in this chapter, or willfully employing a barber
3 who does not hold a valid license issued by the board, managing or conducting a
4 barber school or college without first securing a license from the board, or falsely
5 pretending to be qualified to practice as a barber or instructor or teacher of such
6 occupation under this chapter, or failing to keep any license required by this
7 chapter properly displayed or for any extortion or overcharge practiced, and any
8 barber college, firm, corporation or person operating or conducting a barber
9 college without first having secured the license required by this chapter, or failing
10 to comply with such sanitary rules as the board[, in conjunction with the
11 department of health and senior services,] prescribes, or for the violation of any
12 of the provisions of this chapter, shall be deemed guilty of a class C
13 misdemeanor. Prosecutions under this chapter shall be initiated and carried on
14 in the same manner as other prosecutions for misdemeanors in this state.

332.112. 1. A person desiring to obtain a volunteer license to
2 practice dentistry shall:

3 (1) Submit to the board a verified affidavit stating that he or she
4 has been licensed to practice dentistry in Missouri or in any state or
5 territory of the United States or the District of Columbia for at least
6 ten years and has not allowed that license to lapse or expire for a
7 period of time greater than four years immediately preceding the date
8 of application for a volunteer license, is retired from the practice of
9 dentistry, and that his or her license was in good standing at
10 retirement; and

11 (2) Meet the requirements in section 332.151.

12 2. Effective with the licensing period beginning on December 1,

13 2010, a volunteer license to practice dentistry shall be renewed every
14 two years. To renew a license, each dentist shall submit satisfactory
15 evidence of current certification in the American Heart Association's
16 Basic Life Support (BLS), Advanced Cardiac Life Support (ACLS), or
17 certification equivalent to BLS or ACLS and completion of forty hours
18 of board-approved continuing education during the two-year period
19 immediately preceding the renewal period. Continuing education
20 hours earned towards certification in BLS or ACLS may be applied
21 towards the forty hours of continuing education required for
22 renewal. Each dentist shall maintain documentation of completion of
23 the required continuing education hours for a minimum of six years
24 after the reporting period in which the continuing education was
25 completed. The board, solely in its discretion, may allow a dentist
26 working at a facility outlined in subsection 3 of section 332.112 to
27 credit time spent working in that facility towards the forty hour
28 continuing education requirement for renewal. The board, solely in its
29 discretion, may waive or extend the time requirements for completion
30 of continuing education for reasons related to health, military service,
31 foreign residency, or for other good cause. All requests for credit for
32 continuing education hours and requests for waivers or extensions of
33 time shall be made in writing and submitted to the board before the
34 renewal date.

35 3. A dentist with a volunteer license may only provide without
36 compensation dental care and preventative care services to family
37 members or at facilities operated by city or county health departments
38 organized under chapter 192, RSMo, or chapter 205, RSMo, city health
39 departments operating under city charters, combined city-county
40 health centers, public elementary or secondary schools, federally
41 funded community health centers, or nonprofit community health
42 centers.

43 4. The board shall not charge a fee for any application for a
44 volunteer license to practice dentistry nor to renew a volunteer license
45 to practice dentistry.

332.113. 1. A person desiring to obtain a volunteer license to
2 practice as a dental hygienist shall:

3 (1) Submit to the board a verified affidavit stating that he or she
4 has been licensed to practice as a dental hygienist in Missouri or in any
5 state or territory of the United States or the District of Columbia for at

6 least ten years, and has not allowed that license to lapse or expire for
7 a period of time greater than four years immediately preceding the
8 date of application for a volunteer license is retired from practicing as
9 a dental hygienist, and that his or her license was in good standing at
10 retirement; and

11 (2) Meet the requirements in sections 332.251 or 332.281 and
12 332.231.

13 2. Effective with the licensing period beginning on December 1,
14 2010, a volunteer license to practice dental hygiene shall be renewed
15 every two years. To renew a license, each dental hygienist shall submit
16 satisfactory evidence of current certification in the American Heart
17 Association's Basic Life Support (BLS), Advanced Cardiac Life Support
18 (ACLS), or certification equivalent to BLS or ACLS and completion of
19 twenty- five hours of board-approved continuing education during the
20 two-year period immediately preceding the renewal period. Continuing
21 education hours earned towards certification in BLS or ACLS may be
22 applied towards the twenty-five hours of continuing education required
23 for renewal. Each dental hygienist shall maintain documentation of
24 completion of the required continuing education hours for a minimum
25 of six years after the reporting period in which the continuing
26 education was completed. The board, solely in its discretion, may allow
27 a dental hygienist working at a facility outlined in subsection 3 of this
28 section to credit time spent working in that facility towards the twenty
29 five hour continuing education requirement for renewal. The board,
30 solely in its discretion, may waive or extend the time requirements for
31 completion of continuing education for reasons related to health,
32 military service, foreign residency, or for other good cause. All
33 requests for credit for continuing education hours and requests for
34 waivers or extensions of time shall be made in writing and submitted
35 to the board before the renewal date.

36 3. A dental hygienist with a volunteer license may only provide
37 without compensation dental hygiene care and preventative care
38 services to family members or at facilities operated by city or county
39 health departments organized under chapter 192, RSMo, or chapter 205,
40 RSMo, city health departments operating under city charters, combined
41 city-county health centers, public elementary or secondary schools,
42 federally funded community health centers, or nonprofit community
43 health centers.

44 **4. The board shall not charge a fee for any application for a**
45 **volunteer license to practice dental hygiene nor to renew a volunteer**
46 **license to practice dental hygiene.**

 334.735. 1. As used in sections 334.735 to 334.749, the following terms
2 mean:

3 (1) "Applicant", any individual who seeks to become licensed as a
4 physician assistant;

5 (2) "Certification" or "registration", a process by a certifying entity that
6 grants recognition to applicants meeting predetermined qualifications specified
7 by such certifying entity;

8 (3) "Certifying entity", the nongovernmental agency or association which
9 certifies or registers individuals who have completed academic and training
10 requirements;

11 (4) "Department", the department of insurance, financial institutions and
12 professional registration or a designated agency thereof;

13 (5) "License", a document issued to an applicant by the board
14 acknowledging that the applicant is entitled to practice as a physician assistant;

15 (6) "Physician assistant", a person who has graduated from a physician
16 assistant program accredited by the American Medical Association's Committee
17 on Allied Health Education and Accreditation or by its successor agency, who has
18 passed the certifying examination administered by the National Commission on
19 Certification of Physician Assistants and has active certification by the National
20 Commission on Certification of Physician Assistants who provides health care
21 services delegated by a licensed physician. A person who has been employed as
22 a physician assistant for three years prior to August 28, 1989, who has passed the
23 National Commission on Certification of Physician Assistants examination, and
24 has active certification of the National Commission on Certification of Physician
25 Assistants;

26 (7) "Recognition", the formal process of becoming a certifying entity as
27 required by the provisions of sections 334.735 to 334.749;

28 (8) "Supervision", control exercised over a physician assistant working
29 within the same facility as the supervising physician sixty-six percent of the time
30 a physician assistant provides patient care, except a physician assistant may
31 make follow-up patient examinations in hospitals, nursing homes, patient homes,
32 and correctional facilities, each such examination being reviewed, approved and
33 signed by the supervising physician, except as provided by subsection 2 of this
34 section. For the purposes of this section, the percentage of time a physician
35 assistant provides patient care with the supervising physician on-site shall be

36 measured each calendar quarter. The supervising physician must be readily
37 available in person or via telecommunication during the time the physician
38 assistant is providing patient care. The board shall promulgate rules pursuant
39 to chapter 536, RSMo, for documentation of joint review of the physician assistant
40 activity by the supervising physician and the physician assistant. The physician
41 assistant shall be limited to practice at locations where the supervising physician
42 is no further than thirty miles by road using the most direct route available, or
43 in any other fashion so distanced as to create an impediment to effective
44 intervention and supervision of patient care or adequate review of services. Any
45 other provisions of this chapter notwithstanding, for up to ninety days following
46 the effective date of rules promulgated by the board to establish the waiver
47 process under subsection 2 of this section, any physician assistant practicing in
48 a health professional shortage area as of April 1, 2007, shall be allowed to
49 practice under the on-site requirements stipulated by the supervising physician
50 on the supervising physician form that was in effect on April 1, 2007.

51 2. The board shall promulgate rules under chapter 536, RSMo, to direct
52 the advisory commission on physician assistants to establish a formal waiver
53 mechanism by which an individual physician-physician assistant team may apply
54 for alternate minimum amounts of on-site supervision and maximum distance
55 from the supervising physician. After review of an application for a waiver, the
56 advisory commission on physician assistants shall present its recommendation to
57 the board for its advice and consent on the approval or denial of the
58 application. The rule shall establish a process by which the public is invited to
59 comment on the application for a waiver, and shall specify that a waiver may only
60 be granted if a supervising physician and physician assistant demonstrate to the
61 board's satisfaction in accordance with its uniformly applied criteria that:

62 (1) Adequate supervision will be provided by the physician for the
63 physician assistant, given the physician assistant's training and experience and
64 the acuity of patient conditions normally treated in the clinical setting;

65 (2) The physician assistant shall be limited to practice at locations where
66 the supervising physician is no further than fifty miles by road using the most
67 direct route available, or in any other fashion so distanced as to create an
68 impediment to effective intervention and supervision of patient care or adequate
69 review of services;

70 (3) The community or communities served by the supervising physician
71 and physician assistant would experience reduced access to health care services
72 in the absence of a waiver; [and]

73 (4) The applicant will practice in an area designated at the time of

74 application as a health professional shortage area;

75 (5) Nothing in this section shall be construed to require a
76 physician-physician assistant team to increase their on-site requirement allowed
77 in their initial waiver in order to qualify for renewal of such waiver;

78 (6) If a waiver has been granted by the board of healing arts to
79 a physician assistant working in a rural health clinic under the federal
80 Rural Health Clinic Services Act, P.L. 95-210, as amended, no additional
81 waiver shall be required, so long as the rural health clinic maintains its
82 status as a rural health clinic under such federal act, and such
83 physician assistant and supervising physician comply with federal
84 supervision requirements;

85 (7) A physician assistant shall only be required to seek a renewal
86 of a waiver every five years or when his or her supervising physician
87 is a different physician than the physician shown on the waiver
88 application or they move their primary practice location more than ten
89 miles from the location shown on the waiver application.

90 3. The scope of practice of a physician assistant shall consist only of the
91 following services and procedures:

92 (1) Taking patient histories;

93 (2) Performing physical examinations of a patient;

94 (3) Performing or assisting in the performance of routine office laboratory
95 and patient screening procedures;

96 (4) Performing routine therapeutic procedures;

97 (5) Recording diagnostic impressions and evaluating situations calling for
98 attention of a physician to institute treatment procedures;

99 (6) Instructing and counseling patients regarding mental and physical
100 health using procedures reviewed and approved by a licensed physician;

101 (7) Assisting the supervising physician in institutional settings, including
102 reviewing of treatment plans, ordering of tests and diagnostic laboratory and
103 radiological services, and ordering of therapies, using procedures reviewed and
104 approved by a licensed physician;

105 (8) Assisting in surgery;

106 (9) Performing such other tasks not prohibited by law under the
107 supervision of a licensed physician as the physician's assistant has been trained
108 and is proficient to perform;

109 (10) Physician assistants shall not perform abortions.

110 4. Physician assistants shall not prescribe nor dispense any drug,
111 medicine, device or therapy independent of consultation with the supervising

112 physician, nor prescribe lenses, prisms or contact lenses for the aid, relief or
113 correction of vision or the measurement of visual power or visual efficiency of the
114 human eye, nor administer or monitor general or regional block anesthesia during
115 diagnostic tests, surgery or obstetric procedures. Prescribing and dispensing of
116 drugs, medications, devices or therapies by a physician assistant shall be
117 pursuant to a physician assistant supervision agreement which is specific to the
118 clinical conditions treated by the supervising physician and the physician
119 assistant shall be subject to the following:

120 (1) A physician assistant shall [not] **only** prescribe controlled substances
121 **in accordance with section 334.747;**

122 (2) The types of drugs, medications, devices or therapies prescribed or
123 dispensed by a physician assistant shall be consistent with the scopes of practice
124 of the physician assistant and the supervising physician;

125 (3) All prescriptions shall conform with state and federal laws and
126 regulations and shall include the name, address and telephone number of the
127 physician assistant and the supervising physician;

128 (4) A physician assistant or advanced practice nurse as defined in section
129 335.016, RSMo, may request, receive and sign for noncontrolled professional
130 samples and may distribute professional samples to patients;

131 (5) A physician assistant shall not prescribe any drugs, medicines, devices
132 or therapies the supervising physician is not qualified or authorized to prescribe;
133 and

134 (6) A physician assistant may only dispense starter doses of medication
135 to cover a period of time for seventy-two hours or less.

136 5. A physician assistant shall clearly identify himself or herself as a
137 physician assistant and shall not use or permit to be used in the physician
138 assistant's behalf the terms "doctor", "Dr." or "doc" nor hold himself or herself out
139 in any way to be a physician or surgeon. No physician assistant shall practice or
140 attempt to practice without physician supervision or in any location where the
141 supervising physician is not immediately available for consultation, assistance
142 and intervention, except as otherwise provided in this section, and in an
143 emergency situation, nor shall any physician assistant bill a patient
144 independently or directly for any services or procedure by the physician assistant.

145 6. For purposes of this section, the licensing of physician assistants shall
146 take place within processes established by the state board of registration for the
147 healing arts through rule and regulation. The board of healing arts is authorized
148 to establish rules pursuant to chapter 536, RSMo, establishing licensing and
149 renewal procedures, supervision, supervision agreements, fees, and addressing

150 such other matters as are necessary to protect the public and discipline the
151 profession. An application for licensing may be denied or the license of a
152 physician assistant may be suspended or revoked by the board in the same
153 manner and for violation of the standards as set forth by section 334.100, or such
154 other standards of conduct set by the board by rule or regulation. Persons
155 licensed pursuant to the provisions of chapter 335, RSMo, shall not be required
156 to be licensed as physician assistants. All applicants for physician assistant
157 licensure who complete a physician assistant training program after January 1,
158 2008, shall have a master's degree from a physician assistant program.

159 7. "Physician assistant supervision agreement" means a written
160 agreement, jointly agreed-upon protocols or standing order between a supervising
161 physician and a physician assistant, which provides for the delegation of health
162 care services from a supervising physician to a physician assistant and the review
163 of such services.

164 8. When a physician assistant supervision agreement is utilized to provide
165 health care services for conditions other than acute self-limited or well-defined
166 problems, the supervising physician or other physician designated in the
167 supervision agreement shall see the patient for evaluation and approve or
168 formulate the plan of treatment for new or significantly changed conditions as
169 soon as practical, but in no case more than two weeks after the patient has been
170 seen by the physician assistant.

171 9. At all times the physician is responsible for the oversight of the
172 activities of, and accepts responsibility for, health care services rendered by the
173 physician assistant.

174 10. It is the responsibility of the supervising physician to determine and
175 document the completion of at least a one-month period of time during which the
176 licensed physician assistant shall practice with a supervising physician
177 continuously present before practicing in a setting where a supervising physician
178 is not continuously present.

179 11. No contract or other agreement shall require a physician to act as a
180 supervising physician for a physician assistant against the physician's will. A
181 physician shall have the right to refuse to act as a supervising physician, without
182 penalty, for a particular physician assistant. No contract or other agreement
183 shall limit the supervising physician's ultimate authority over any protocols or
184 standing orders or in the delegation of the physician's authority to any physician
185 assistant, but this requirement shall not authorize a physician in implementing
186 such protocols, standing orders, or delegation to violate applicable standards for
187 safe medical practice established by hospital's medical staff.

188 12. Physician assistants shall file with the board a copy of their
189 supervising physician form.

190 13. No physician shall be designated to serve as supervising physician for
191 more than three full-time equivalent licensed physician assistants. This
192 limitation shall not apply to physician assistant agreements of hospital employees
193 providing inpatient care service in hospitals as defined in chapter 197, RSMo.

334.747. 1. A physician assistant with a certificate of controlled
2 **substance prescriptive authority as provided in this section may**
3 **prescribe any controlled substance listed in schedule III, IV, or V of**
4 **section 195.017, RSMo, when delegated the authority to prescribe**
5 **controlled substances in a supervision agreement. Such authority shall**
6 **be listed on the supervision verification form on file with the state**
7 **board of healing arts. The supervising physician shall maintain the**
8 **right to limit a specific scheduled drug or scheduled drug category that**
9 **the physician assistant is permitted to prescribe. Any limitations shall**
10 **be listed on the supervision form. Physician assistants shall not**
11 **prescribe controlled substances for themselves or members of their**
12 **families. Schedule III controlled substances shall be limited to a five-**
13 **day supply without refill. Physician assistants who are authorized to**
14 **prescribe controlled substances under this section shall register with**
15 **the federal Drug Enforcement Administration and the state bureau of**
16 **narcotics and dangerous drugs, and shall include such registration**
17 **numbers on prescriptions for controlled substances.**

18 2. The supervising physician shall be responsible to determine
19 and document the completion of at least one hundred twenty hours in
20 a four-month period by the physician assistant during which the
21 physician assistant shall practice with the supervising physician on-site
22 prior to prescribing controlled substances when the supervising
23 physician is not on-site. Such limitation shall not apply to physician
24 assistants of population-based public health services as defined in 20
25 CSR 2150-5.100 as of April 30, 2009.

26 3. A physician assistant shall receive a certificate of controlled
27 substance prescriptive authority from the board of healing arts upon
28 verification of the completion of the following educational
29 requirements:

30 (1) Successful completion of an advanced pharmacology course
31 that includes clinical training in the prescription of drugs, medicines,
32 and therapeutic devices. A course or courses with advanced

33 pharmacological content in a physician assistant program accredited
34 by the Accreditation Review Commission on Education for the
35 Physician Assistant (ARC-PA) or its predecessor agency shall satisfy
36 such requirement;

37 (2) Completion of a minimum of three hundred clock hours of
38 clinical training by the supervising physician in the prescription of
39 drugs, medicines, and therapeutic devices;

40 (3) Completion of a minimum of one year of supervised clinical
41 practice or supervised clinical rotations. One year of clinical rotations
42 in a program accredited by the Accreditation Review Commission on
43 Education for the Physician Assistant (ARC-PA) or its predecessor
44 agency, which includes pharmacotherapeutics as a component of its
45 clinical training, shall satisfy such requirement. Proof of such training
46 shall serve to document experience in the prescribing of drugs,
47 medicines, and therapeutic devices;

48 (4) A physician assistant previously licensed in a jurisdiction
49 where physician assistants are authorized to prescribe controlled
50 substances may obtain a state bureau of narcotics and dangerous drugs
51 registration if a supervising physician can attest that the physician
52 assistant has met the requirements of subdivisions (1) to (3) of this
53 subsection and provides documentation of existing federal Drug
54 Enforcement Agency registration.

334.850. The division of professional registration shall provide all
2 necessary personnel to carry out the provisions of sections 334.800 to
3 334.930. The division shall:

4 (1) Exercise all budgeting, purchasing, reporting and other related
5 management functions;

6 (2) [Establish application and licensure fees, in cooperation with the
7 board, and collect such fees;

8 (3)] Deposit all fees collected pursuant to sections 334.800 to 334.930 by
9 transmitting such funds to the department of revenue for deposit to the state
10 treasury to the credit of the "Respiratory Care Practitioners Fund", which is
11 hereby created. Notwithstanding the provisions of section 33.080, RSMo, to the
12 contrary, money in this fund shall not be transferred and placed to the credit of
13 general revenue until the amount in the fund at the end of the biennium exceeds
14 two times the amount of the appropriations from the fund for the preceding fiscal
15 year, or three times the amount if the board requires renewal of licenses less
16 often than annually. The amount, if any, in the fund which shall lapse is that

17 amount in the fund which exceeds the appropriate multiple of the appropriations
18 from the fund for the preceding fiscal year;

19 [(4)] (3) Process applications and notify licensees when a license is to
20 expire;

21 [(5)] (4) Establish the amount the board shall receive as per diem for
22 each day devoted to the member's official duties on the board and reimburse any
23 actual and necessary expenses a board member incurs in the performance of the
24 member's official duties;

25 [(6)] (5) Promulgate, in cooperation with the board, such rules and
26 regulations as are necessary to administer the provisions of sections 334.800 to
27 334.930. Any rule or portion of a rule, as that term is defined in section 536.010,
28 RSMo, that is created under the authority delegated in sections 334.800 to
29 334.930 shall become effective only if it complies with and is subject to all of the
30 provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. All
31 rulemaking authority delegated prior to August 28, 1999, is of no force and effect
32 and repealed. Nothing in this section shall be interpreted to repeal or affect the
33 validity of any rule filed or adopted prior to August 28, 1999, if it fully complied
34 with all applicable provisions of law. This section and chapter 536, RSMo, are
35 nonseverable and if any of the powers vested with the general assembly pursuant
36 to chapter 536, RSMo, to review, to delay the effective date or to disapprove and
37 annul a rule are subsequently held unconstitutional, then the grant of
38 rulemaking authority and any rule proposed or adopted after August 28, 1999,
39 shall be invalid and void.

40 NURSE LICENSURE COMPACT

41 ARTICLE I

2 **335.300. FINDINGS AND DECLARATION OF PURPOSE. 1. The**
3 **party states find that:**

4 (1) The health and safety of the public are affected by the degree
5 of compliance with and the effectiveness of enforcement activities
6 related to state nurse licensure laws;

7 (2) Violations of nurse licensure and other laws regulating the
8 practice of nursing may result in injury or harm to the public;

9 (3) The expanded mobility of nurses and the use of advanced
10 communication technologies as part of our nation's healthcare delivery
11 system require greater coordination and cooperation among states in
12 the areas of nurse licensure and regulation;

13 (4) New practice modalities and technology make compliance
with individual state nurse licensure laws difficult and complex;

14 (5) The current system of duplicative licensure for nurses
15 practicing in multiple states is cumbersome and redundant to both
16 nurses and states.

17 **2. The general purposes of this compact are to:**

18 (1) Facilitate the states' responsibility to protect the public's
19 health and safety;

20 **(2) Ensure and encourage the cooperation of party states in the**
21 **areas of nurse licensure and regulation;**

(3) Facilitate the exchange of information between party states
in the areas of nurse regulation, investigation, and adverse actions;

24 (4) Promote compliance with the laws governing the practice of
25 nursing in each jurisdiction;

26 **(5) Invest all party states with the authority to hold a nurse**
27 **accountable for meeting all state practice laws in the state in which the**
28 **patient is located at the time care is rendered through the mutual**
29 **recognition of party state licenses.**

30 ARTICLE II

335.305. DEFINITIONS. As used in this compact, the following
2 terms shall mean:

3 (1) "Adverse action", a home or remote state action;

4 (2) "Alternative program", a voluntary, non-disciplinary
5 monitoring program approved by a nurse licensing board;

6 (3) "Coordinated licensure information system", an integrated
7 process for collecting, storing, and sharing information on nurse
8 licensure and enforcement activities related to nurse licensure laws,
9 which is administered by a non-profit organization composed of and
10 controlled by state nurse licensing boards;

11 (4) "Current significant investigative information":

(a) Investigative information that a licensing board, after a preliminary inquiry that includes notification and an opportunity for the nurse to respond if required by state law, has reason to believe is not groundless and, if proved true, would indicate more than a minor infraction; or

17 **(b) Investigative information that indicates that the nurse**
18 **represents an immediate threat to public health and safety regardless**
19 **of whether the nurse has been notified and had an opportunity to**
20 **respond;**

21 (5) "Home state", the party state that is the nurse's primary state

22 of residence;

23 (6) "Home state action", any administrative, civil, equitable, or
24 criminal action permitted by the home state's laws that are imposed on
25 a nurse by the home state's licensing board or other authority
26 including actions against an individual's license such as: revocation,
27 suspension, probation, or any other action affecting a nurse's
28 authorization to practice;

29 (7) "Licensing board", a party state's regulatory body responsible
30 for issuing nurse licenses;

31 (8) "Multistate licensing privilege", current, official authority
32 from a remote state permitting the practice of nursing as either a
33 registered nurse or a licensed practical/vocational nurse in such party
34 state. All party states have the authority, in accordance with existing
35 state due process law, to take actions against the nurse's privilege such
36 as: revocation, suspension, probation, or any other action that affects
37 a nurse's authorization to practice;

38 (9) "Nurse", a registered nurse or licensed/vocational nurse, as
39 those terms are defined by each state's practice laws;

40 (10) "Party state", any state that has adopted this compact;

41 (11) "Remote state", a party state, other than the home state:

42 (a) Where a patient is located at the time nursing care is
43 provided; or

44 (b) In the case of the practice of nursing not involving a patient,
45 in such party state where the recipient of nursing practice is located;

46 (12) "Remote state action":

47 (a) Any administrative, civil, equitable, or criminal action
48 permitted by a remote state's laws which are imposed on a nurse by the
49 remote state's licensing board or other authority including actions
50 against an individual's multistate licensure privilege to practice in the
51 remote state; and

52 (b) Cease and desist and other injunctive or equitable orders
53 issued by remote states or the licensing boards thereof;

54 (13) "State", a state, territory, or possession of the United States,
55 the District of Columbia, or the Commonwealth of Puerto Rico;

56 (14) "State practice laws", those individual party's state laws and
57 regulations that govern the practice of nursing, define the scope of
58 nursing practice, and create the methods and grounds for imposing
59 discipline. State practice laws does not include the initial

60 qualifications for licensure or requirements necessary to obtain and
61 retain a license, except for qualifications or requirements of the home
62 state.

63 **ARTICLE III**

335.310. GENERAL PROVISIONS AND JURISDICTION. 1. A
2 license to practice registered nursing issued by a home state to a
3 resident in that state will be recognized by each party state as
4 authorizing a multistate licensure privilege to practice as a registered
5 nurse in such party state. A license to practice licensed
6 practical/vocational nursing issued by a home state to a resident in that
7 state will be recognized by each party state as authorizing a multistate
8 licensure privilege to practice as a licensed practical/vocational nurse
9 in such party state. In order to obtain or retain a license, an applicant
10 must meet the home state's qualifications for licensure and license
11 renewal as well as all other applicable state laws.

12 2. Party states may, in accordance with state due process laws,
13 limit or revoke the multistate licensure privilege of any nurse to
14 practice in their state and may take any other actions under their
15 applicable state laws necessary to protect the health and safety of their
16 citizens. If a party state takes such action, it shall promptly notify the
17 administrator of the coordinated licensure information system. The
18 administrator of the coordinated licensure information system shall
19 promptly notify the home state of any such actions by remote states.

20 3. Every nurse practicing in a party state must comply with the
21 state practice laws of the state in which the patient is located at the
22 time care is rendered. In addition, the practice of nursing is not
23 limited to patient care, but shall include all nursing practice as defined
24 by the state practice laws of a party state. The practice of nursing will
25 subject a nurse to the jurisdiction of the nurse licensing board and the
26 courts, as well as the laws, in that party state.

27 4. This compact does not affect additional requirements imposed
28 by states for advanced practice registered nursing. However, a
29 multistate licensure privilege to practice registered nursing granted by
30 a party state shall be recognized by other party states as a license to
31 practice registered nursing if one is required by state law as a
32 precondition for qualifying for advanced practice registered nurse
33 authorization.

34 5. Individuals not residing in a party state shall continue to be
35 able to apply for nurse licensure as provided for under the laws of each
36 party state. However, the license granted to these individuals will not
37 be recognized as granting the privilege to practice nursing in any other
38 party state unless explicitly agreed to by that party state.

39 ARTICLE IV

 335.315. APPLICATIONS FOR LICENSURE IN A PARTY
2 STATE. 1. Upon application for a license, the licensing board in a
3 party state shall ascertain, through the coordinated licensure
4 information system, whether the applicant has ever held, or is the
5 holder of, a license issued by any other state, whether there are any
6 restrictions on the multistate licensure privilege, and whether any
7 other adverse action by any state has been taken against the license.

8 2. A nurse in a party state shall hold licensure in only one party
9 state at a time, issued by the home state.

10 3. A nurse who intends to change primary state of residence may
11 apply for licensure in the new home state in advance of such
12 change. However, new licenses will not be issued by a party state until
13 after a nurse provides evidence of change in primary state of residence
14 satisfactory to the new home state's licensing board.

15 4. When a nurse changes primary state of residence by:

16 (1) Moving between two party states, and obtains a license from
17 the new home state, the license from the former home state is no longer
18 valid;

19 (2) Moving from a non-party state to a party state, and obtains
20 a license from the new home state, the individual state license issued
21 by the non-party state is not affected and will remain in full force if so
22 provided by the laws of the non-party state;

23 (3) Moving from a party state to a non-party state, the license
24 issued by the prior home state converts to an individual state license,
25 valid only in the former home state, without the multistate licensure
26 privilege to practice in other party states.

27 ARTICLE V

 335.320. ADVERSE ACTIONS. In addition to the general
2 provisions described in article III of this compact, the following
3 provisions apply:

4 (1) The licensing board of a remote state shall promptly report
5 to the administrator of the coordinated licensure information system

6 any remote state actions including the factual and legal basis for such
7 action, if known. The licensing board of a remote state shall also
8 promptly report any significant current investigative information yet
9 to result in a remote state action. The administrator of the coordinated
10 licensure information system shall promptly notify the home state of
11 any such reports;

12 (2) The licensing board of a party state shall have the authority
13 to complete any pending investigations for a nurse who changes
14 primary state of residence during the course of such investigations. It
15 shall also have the authority to take appropriate actions, and shall
16 promptly report the conclusions of such investigations to the
17 administrator of the coordinated licensure information system. The
18 administrator of the coordinated licensure information system shall
19 promptly notify the new home state of any such actions;

20 (3) A remote state may take adverse action affecting the
21 multistate licensure privilege to practice within that party
22 state. However, only the home state shall have the power to impose
23 adverse action against the license issued by the home state;

24 (4) For purposes of imposing adverse action, the licensing board
25 of the home state shall give the same priority and effect to reported
26 conduct received from a remote state as it would if such conduct had
27 occurred within the home state, in so doing, it shall apply its own state
28 laws to determine appropriate action;

29 (5) The home state may take adverse action based on the factual
30 findings of the remote state, so long as each state follows its own
31 procedures for imposing such adverse action;

32 (6) Nothing in this compact shall override a party state's decision
33 that participation in an alternative program may be used in lieu of
34 licensure action and that such participation shall remain non-public if
35 required by the party state's laws. Party states must require nurses
36 who enter any alternative programs to agree not to practice in any
37 other party state during the term of the alternative program without
38 prior authorization from such other party state.

39 ARTICLE VI

335.325. ADDITIONAL AUTHORITIES INVESTED IN PARTY
2 STATE NURSE LICENSING BOARDS. Notwithstanding any other
3 powers, party state nurse licensing boards shall have the authority to:

4 (1) If otherwise permitted by state law, recover from the affected

5 nurse the costs of investigations and disposition of cases resulting from
6 any adverse action taken against that nurse;

7 (2) Issue subpoenas for both hearings and investigations which
8 require the attendance and testimony of witnesses, and the production
9 of evidence. Subpoenas issued by a nurse licensing board in a party
10 state for the attendance and testimony of witnesses, and/or the
11 production of evidence from another party state, shall be enforced in
12 the latter state by any court of competent jurisdiction, according to the
13 practice and procedure of that court applicable to subpoenas issued in
14 proceedings pending before it. The issuing authority shall pay any
15 witness fees, travel expenses, mileage, and other fees required by the
16 service statutes of the state where the witnesses and evidence are
17 located;

18 (3) Issue cease and desist orders to limit or revoke a nurse's
19 authority to practice in their state;

20 (4) Promulgate uniform rules and regulations as provided for in
21 subsection 3 of section 335.335.

22 **ARTICLE VII**

335.330. COORDINATED LICENSURE INFORMATION
2 **SYSTEM.** 1. All party states shall participate in a cooperative effort to
3 create a coordinated database of all licensed registered nurses and
4 licensed practical/vocational nurses. This system will include
5 information on the licensure and disciplinary history of each nurse, as
6 contributed by party states, to assist in the coordination of nurse
7 licensure and enforcement efforts.

8 2. Notwithstanding any other provision of law, all party states'
9 licensing boards shall promptly report adverse actions, actions against
10 multistate licensure privileges, any current significant investigative
11 information yet to result in adverse action, denials of applications, and
12 the reasons for such denials to the coordinated licensure information
13 system.

14 3. Current significant investigative information shall be
15 transmitted through the coordinated licensure information system only
16 to party state licensing boards.

17 4. Notwithstanding any other provision of law, all party states'
18 licensing boards contributing information to the coordinated licensure
19 information system may designate information that may not be shared
20 with non-party states or disclosed to other entities or individuals

21 without the express permission of the contributing state.

22 5. Any personally identifiable information obtained by a party
23 states' licensing board from the coordinated licensure information
24 system may not be shared with non-party states or disclosed to other
25 entities or individuals except to the extent permitted by the laws of the
26 party state contributing the information.

27 6. Any information contributed to the coordinated licensure
28 information system that is subsequently required to be expunged by the
29 laws of the party state contributing that information shall also be
30 expunged from the coordinated licensure information system.

31 7. The compact administrators, acting jointly with each other
32 and in consultation with the administrator of the coordinated licensure
33 information system, shall formulate necessary and proper procedures
34 for the identification, collection, and exchange of information under
35 this compact.

36

ARTICLE VIII

 335.335. COMPACT ADMINISTRATION AND INTERCHANGE OF
2 INFORMATION. 1. The head of the nurse licensing board, or his/her
3 designee, of each party state shall be the administrator of this compact
4 for his/her state.

5 2. The compact administrator of each party shall furnish to the
6 compact administrator of each other party state any information and
7 documents including, but not limited to, a uniform data set of
8 investigations, identifying information, licensure data, and disclosable
9 alternative program participation information to facilitate the
10 administration of this compact.

11 3. Compact administrators shall have the authority to develop
12 uniform rules to facilitate and coordinate implementation of this
13 compact. These uniform rules shall be adopted by party states, under
14 the authority invested under subsection 4 of section 335.325.

15

ARTICLE IX

 335.340. IMMUNITY. No party state or the officers or employees
2 or agents of a party state's nurse licensing board who acts in
3 accordance with the provisions of this compact shall be liable on
4 account of any act or omission in good faith while engaged in the
5 performance of their duties under this compact. Good faith in this
6 article shall not include willful misconduct, gross negligence, or
7 recklessness.

8

ARTICLE X

335.345. ENTRY INTO FORCE, WITHDRAWAL AND AMENDMENT. 1. This compact shall enter into force and become effective as to any state when it has been enacted into the laws of that state. Any party state may withdraw from this compact by enacting a statute repealing the same, but no such withdrawal shall take effect until six months after the withdrawing state has given notice of the withdrawal to the executive heads of all other party states.

2. No withdrawal shall affect the validity or applicability by the licensing boards of states remaining party to the compact of any report of adverse action occurring prior to the withdrawal.

3. Nothing contained in this compact shall be construed to invalidate or prevent any nurse licensure agreement or other cooperative arrangement between a party state and a non-party state that is made in accordance with the other provisions of this compact.

4. This compact may be amended by the party states. No amendment to this compact shall become effective and binding upon the party states unless and until it is enacted into the laws of all party states.

19

ARTICLE XI

335.350. CONSTRUCTION AND SEVERABILITY. 1. This compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person, or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the party state affected as to all severable matters.

2. In the event party states find a need for settling disputes arising under this compact:

(1) The party states may submit the issues in dispute to an arbitration panel which will be comprised of an individual appointed by the compact administrator in the home state, an individual

19 appointed by the compact administrator in the remote states involved,
20 and an individual mutually agreed upon by the compact administrators
21 of all the party states involved in the dispute;

22 (2) The decision of a majority of the arbitrators shall be final and
23 binding.

335.355. APPLICABILITY OF COMPACT. 1. The term "head of
2 the nurse licensing board" as referred to in article VIII of this compact
3 shall mean the executive director of the Missouri state board of
4 nursing.

5 2. A person who is extended the privilege to practice in this state
6 pursuant to the nurse licensure compact is subject to discipline by the
7 board, as set forth in this chapter, for violation of this chapter or the
8 rules and regulations promulgated herein. A person extended the
9 privilege to practice in this state pursuant to the nurse licensure
10 compact shall be subject to adhere to all requirements of this chapter,
11 as if such person were originally licensed in this state.

12 3. Sections 335.300 to 335.355 are applicable only to nurses whose
13 home states are determined by the Missouri state board of nursing to
14 have licensure requirements that are substantially equivalent or more
15 stringent than those of Missouri.

16 4. This compact is designed to facilitate the regulation of nurses,
17 and does not relieve employers from complying with statutorily
18 imposed obligations.

19 5. This compact does not supercede existing state labor laws.

337.712. 1. Applications for licensure as a marital and family therapist
2 shall be in writing, submitted to the [division] committee on forms prescribed
3 by the [division] committee and furnished to the applicant. The application
4 shall contain the applicant's statements showing the applicant's education,
5 experience and such other information as the [division] committee may
6 require. Each application shall contain a statement that it is made under oath
7 or affirmation and that the information contained therein is true and correct to
8 the best knowledge and belief of the applicant, subject to the penalties provided
9 for the making of a false affidavit or declaration. Each application shall be
10 accompanied by the fees required by the division.

11 2. The division shall mail a renewal notice to the last known address of
12 each licensee prior to the licensure renewal date. Failure to provide the division
13 with the information required for license, or to pay the licensure fee after such
14 notice shall effect a revocation of the license after a period of sixty days from the

15 [licensure] **license** renewal date. The license shall be restored if, within two
16 years of the licensure date, the applicant provides written application and the
17 payment of the licensure fee and a delinquency fee.

18 3. A new certificate to replace any certificate lost, destroyed or mutilated
19 may be issued subject to the rules of the division upon payment of a fee.

20 4. The [division] **committee** shall set the amount of the fees
21 authorized. The fees shall be set at a level to produce revenue which shall not
22 substantially exceed the cost and expense of administering the provisions of
23 sections 337.700 to 337.739. All fees provided for in sections 337.700 to 337.739
24 shall be collected by the director who shall deposit the same with the state
25 treasurer to a fund to be known as the "Marital and Family Therapists' Fund".

26 5. The provisions of section 33.080, RSMo, to the contrary
27 notwithstanding, money in this fund shall not be transferred and placed to the
28 credit of general revenue until the amount in the fund at the end of the biennium
29 exceeds two times the amount of the appropriations from the marital and family
30 therapists' fund for the preceding fiscal year or, if the division requires by rule
31 renewal less frequently than yearly then three times the appropriation from the
32 fund for the preceding fiscal year. The amount, if any, in the fund which shall
33 lapse is that amount in the fund which exceeds the appropriate multiple of the
34 appropriations from the marital and family therapists' fund for the preceding
35 fiscal year.

337.715. 1. Each applicant for licensure as a marital and family therapist
2 shall furnish evidence to the [division] **committee** that:

3 (1) The applicant has a master's degree or a doctoral degree in marital
4 and family therapy, or its equivalent, from an acceptable educational institution
5 accredited by a regional accrediting body or accredited by an accrediting body
6 which has been approved by the United States Department of Education;

7 (2) The applicant has twenty-four months of postgraduate supervised
8 clinical experience acceptable to the division, as the division determines by rule;

9 (3) After August 28, 2008, the applicant shall have completed a minimum
10 of three semester hours of graduate-level course work in diagnostic systems either
11 within the curriculum leading to a degree as defined in subdivision (1) of this
12 subsection or as post-master's graduate-level course work. Each applicant shall
13 demonstrate supervision of diagnosis as a core component of the postgraduate
14 supervised clinical experience as defined in subdivision (2) of this subsection;

15 (4) Upon examination, the applicant is possessed of requisite knowledge
16 of the profession, including techniques and applications research and its
17 interpretation and professional affairs and ethics;

18 (5) The applicant is at least eighteen years of age, is of good moral
19 character, is a United States citizen or has status as a legal resident alien, and
20 has not been convicted of a felony during the ten years immediately prior to
21 application for licensure.

22 2. Any person otherwise qualified for licensure holding a current license,
23 certificate of registration, or permit from another state or territory of the United
24 States or the District of Columbia to practice marriage and family therapy may
25 be granted a license without examination to engage in the practice of marital and
26 family therapy in this state upon application to the state committee, payment of
27 the required fee as established by the state committee, and satisfaction of the
28 following:

29 (1) Determination by the state committee that the requirements of the
30 other state or territory are substantially the same as Missouri;

31 (2) Verification by the applicant's licensing entity that the applicant has
32 a current license; and

33 (3) Consent by the applicant to examination of any disciplinary history in
34 any state.

35 3. The state committee shall issue a license to each person who files an
36 application and fee as required by the provisions of sections 337.700 to 337.739.

337.718. 1. Each license issued pursuant to the provisions of sections
2 337.700 to 337.739 shall expire on a renewal date established by the
3 director. The term of licensure shall be twenty-four months; however, the director
4 may establish a shorter term for the first licenses issued pursuant to sections
5 337.700 to 337.739. The division shall renew any license upon application for a
6 renewal and upon payment of the fee established by the division pursuant to the
7 provisions of section 337.712. Effective August 28, 2008, as a prerequisite for
8 renewal, each licensee shall furnish to the committee satisfactory evidence of the
9 completion of the requisite number of hours of continuing education as defined
10 by rule, which shall be no more than forty contact hours biennially. The
11 continuing education requirements may be waived by the committee upon
12 presentation to the committee of satisfactory evidence of illness or for other good
13 cause.

14 2. The [division] **committee** may issue temporary permits to practice
15 under extenuating circumstances as determined by the [division] **committee** and
16 defined by rule.

337.727. [1.] The [division] **committee** shall promulgate rules and
2 regulations pertaining to:

3 (1) The form and content of license applications required by the provisions

4 of sections 337.700 to 337.739 and the procedures for filing an application for an
5 initial or renewal license in this state;

6 (2) Fees required by the provisions of sections 337.700 to 337.739;

7 (3) The content, conduct and administration of the licensing examination
8 required by section 337.715;

9 (4) The characteristics of supervised clinical experience as that term is
10 used in section 337.715;

11 (5) The equivalent of the basic educational requirements set forth in
12 section 337.715;

13 (6) The standards and methods to be used in assessing competency as a
14 licensed marital and family therapist;

15 (7) Establishment and promulgation of procedures for investigating,
16 hearing and determining grievances and violations occurring under the provisions
17 of sections 337.700 to 337.739;

18 (8) Development of an appeal procedure for the review of decisions and
19 rules of administrative agencies existing under the constitution or laws of this
20 state;

21 (9) Establishment of a policy and procedure for reciprocity with other
22 states, including states which do not have marital and family therapist licensing
23 laws or states whose licensing laws are not substantially the same as those of this
24 state; and

25 (10) Any other policies or procedures necessary to the fulfillment of the
26 requirements of sections 337.700 to 337.739.

27 [2. No rule or portion of a rule promulgated under the authority of
28 sections 337.700 to 337.739 shall become effective until it has been approved by
29 the joint committee on administrative rules in accordance with the procedures
30 provided in this section, and the delegation of the legislative authority to enact
31 law by the adoption of such rules is dependent upon the power of the joint
32 committee on administrative rules to review and suspend rules pending
33 ratification by the senate and the house of representatives as provided in this
34 section.

35 3. Upon filing any proposed rule with the secretary of state, the division
36 shall concurrently submit such proposed rule to the committee, which may hold
37 hearings upon any proposed rule or portion thereof at any time.

38 4. A final order of rulemaking shall not be filed with the secretary of state
39 until thirty days after such final order of rulemaking has been received by the
40 committee. The committee may hold one or more hearings upon such final order
41 of rulemaking during the thirty-day period. If the committee does not disapprove

42 such order of rulemaking within the thirty-day period, the division may file such
43 order of rulemaking with the secretary of state and the order of rulemaking shall
44 be deemed approved.

45 5. The committee may, by majority vote of the members, suspend the
46 order of rulemaking or portion thereof by action taken prior to the filing of the
47 final order of rulemaking only for one or more of the following grounds:

- 48 (1) An absence of statutory authority for the proposed rule;
49 (2) An emergency relating to public health, safety or welfare;
50 (3) The proposed rule is in conflict with state law;
51 (4) A substantial change in circumstance since enactment of the law upon
52 which the proposed rule is based.

53 6. If the committee disapproves any rule or portion thereof, the division
54 shall not file such disapproved portion of any rule with the secretary of state and
55 the secretary of state shall not publish in the Missouri Register any final order
56 of rulemaking containing the disapproved portion.

57 7. If the committee disapproves any rule or portion thereof, the committee
58 shall report its findings to the senate and the house of representatives. No rule
59 or portion thereof disapproved by the committee shall take effect so long as the
60 senate and the house of representatives ratify the act of the joint committee by
61 resolution adopted in each house within thirty legislative days after such rule or
62 portion thereof has been disapproved by the joint committee.

63 8. Upon adoption of a rule as provided in this section, any such rule or
64 portion thereof may be suspended or revoked by the general assembly either by
65 bill or, pursuant to section 8, article IV of the Constitution of Missouri, by
66 concurrent resolution upon recommendation of the joint committee on
67 administrative rules. The committee shall be authorized to hold hearings and
68 make recommendations pursuant to the provisions of section 536.037, RSMo. The
69 secretary of state shall publish in the Missouri Register, as soon as practicable,
70 notice of the suspension or revocation.]

337.730. 1. The [division] **committee** may refuse to issue or renew any
2 license required by the provisions of sections 337.700 to 337.739 for one or any
3 combination of causes stated in subsection 2 of this section. The [division]
4 **committee** shall notify the applicant in writing of the reasons for the refusal and
5 shall advise the applicant of the applicant's right to file a complaint with the
6 administrative hearing commission as provided by chapter 621, RSMo.

7 2. The [division] **committee** may cause a complaint to be filed with the
8 administrative hearing commission as provided by chapter 621, RSMo, against
9 any holder of any license required by sections 337.700 to 337.739 or any person

10 who has failed to renew or has surrendered the person's license for any one or
11 any combination of the following causes:

12 (1) Use of any controlled substance, as defined in chapter 195, RSMo, or
13 alcoholic beverage to an extent that such use impairs a person's ability to engage
14 in the occupation of marital and family therapist; except the fact that a person
15 has undergone treatment for past substance or alcohol abuse or has participated
16 in a recovery program, shall not by itself be cause for refusal to issue or renew
17 a license;

18 (2) The person has been finally adjudicated and found guilty, or entered
19 a plea of guilty in a criminal prosecution under the laws of any state or of the
20 United States, for any offense reasonably related to the qualifications, functions
21 or duties of a marital and family therapist; for any offense an essential element
22 of which is fraud, dishonesty or an act of violence; or for any offense involving
23 moral turpitude, whether or not sentence is imposed;

24 (3) Use of fraud, deception, misrepresentation or bribery in securing any
25 license issued pursuant to the provisions of sections 337.700 to 337.739 or in
26 obtaining permission to take any examination given or required pursuant to the
27 provisions of sections 337.700 to 337.739;

28 (4) Obtaining or attempting to obtain any fee, charge, tuition or other
29 compensation by fraud, deception or misrepresentation;

30 (5) Incompetency, misconduct, fraud, misrepresentation or dishonesty in
31 the performance of the functions or duties of a marital and family therapist;

32 (6) Violation of, or assisting or enabling any person to violate, any
33 provision of sections 337.700 to 337.739 or of any lawful rule or regulation
34 adopted pursuant to sections 337.700 to 337.739;

35 (7) Impersonation of any person holding a license or allowing any person
36 to use the person's license or diploma from any school;

37 (8) Revocation or suspension of a license or other right to practice marital
38 and family therapy granted by another state, territory, federal agency or country
39 upon grounds for which revocation or suspension is authorized in this state;

40 (9) Final adjudication as incapacitated by a court of competent
41 jurisdiction;

42 (10) Assisting or enabling any person to practice or offer to practice
43 marital and family therapy who is not licensed and is not currently eligible to
44 practice under the provisions of sections 337.700 to 337.739;

45 (11) Obtaining a license based upon a material mistake of fact;

46 (12) Failure to display a valid license if so required by sections 337.700
47 to 337.739 or any rule promulgated hereunder;

48 (13) Violation of any professional trust or confidence;

49 (14) Use of any advertisement or solicitation which is false, misleading or
50 deceptive to the general public or persons to whom the advertisement or
51 solicitation is primarily directed;

52 (15) Being guilty of unethical conduct as defined in the ethical standards
53 for marital and family therapists adopted by the committee by rule and filed with
54 the secretary of state.

55 3. Any person, organization, association or corporation who reports or
56 provides information to the [division pursuant to the provisions of] **committee**
57 **under** sections 337.700 to 337.739 and who does so in good faith shall not be
58 subject to an action for civil damages as a result thereof.

59 4. After filing of such complaint, the proceedings shall be conducted in
60 accordance with the provisions of chapter 621, RSMo. Upon a finding by the
61 administrative hearing commission that the grounds provided in subsection 2 of
62 this section for disciplinary action are met, the division may censure or place the
63 person named in the complaint on probation on such terms and conditions as the
64 [division] **committee** deems appropriate for a period not to exceed five years, or
65 may suspend for a period not to exceed three years, or revoke the license.

337.733. 1. Violation of any provision of sections 337.700 to 337.739 is a
2 class B misdemeanor.

3 2. All fees or other compensation received for services which are rendered
4 in violation of sections 337.700 to 337.739 shall be refunded.

5 3. The department on behalf of the division may sue in its own name in
6 any court in this state. The department shall inquire as to any violations of
7 sections 337.700 to 337.739, may institute actions for penalties prescribed, and
8 shall enforce generally the provisions of sections 337.700 to 337.739.

9 4. Upon application by the [division] **committee**, the attorney general
10 may on behalf of the division request that a court of competent jurisdiction grant
11 an injunction, restraining order or other order as may be appropriate to enjoin a
12 person from:

13 (1) Offering to engage or engaging in the performance of any acts or
14 practices for which a certificate of registration or authority, permit or license is
15 required upon a showing that such acts or practices were performed or offered to
16 be performed without a certificate of registration or authority, permit or license;

17 (2) Engaging in any practice of business authorized by a certificate of
18 registration or authority, permit or license issued pursuant to sections 337.700
19 to 337.739, upon a showing that the holder presents a substantial probability of
20 serious harm to the health, safety or welfare of any resident of this state or client

21 or patient of the licensee.

22 5. Any action brought pursuant to the provisions of this section shall be
23 commenced either in the county in which such conduct occurred or in the county
24 in which the defendant resides.

25 6. Any action brought under this section may be in addition to or in lieu
26 of any penalty provided by sections 337.700 to 337.739 and may be brought
27 concurrently with other actions to enforce the provisions of sections 337.700 to
28 337.739.

338.010. 1. The "practice of pharmacy" means the interpretation,
2 implementation, and evaluation of medical prescription orders, including receipt,
3 transmission, or handling of such orders or facilitating the dispensing of such
4 orders; the designing, initiating, implementing, and monitoring of a medication
5 therapeutic plan as defined by the prescription order so long as the prescription
6 order is specific to each patient for care by a [specific] pharmacist; the
7 compounding, dispensing, labeling, and administration of drugs and devices
8 pursuant to medical prescription orders and administration of viral influenza,
9 **pneumonia, shingles and meningitis** vaccines by written protocol authorized
10 by a physician for persons twelve years of age or older as authorized by rule **or**
11 **the administration of pneumonia, shingles, and meningitis vaccines by**
12 **written protocol authorized by a physician for a specific patient as**
13 **authorized by rule**; the participation in drug selection according to state law
14 and participation in drug utilization reviews; the proper and safe storage of drugs
15 and devices and the maintenance of proper records thereof; consultation with
16 patients and other health care practitioners about the safe and effective use of
17 drugs and devices; and the offering or performing of those acts, services,
18 operations, or transactions necessary in the conduct, operation, management and
19 control of a pharmacy. No person shall engage in the practice of pharmacy unless
20 he is licensed under the provisions of this chapter. This chapter shall not be
21 construed to prohibit the use of auxiliary personnel under the direct supervision
22 of a pharmacist from assisting the pharmacist in any of his duties. This
23 assistance in no way is intended to relieve the pharmacist from his
24 responsibilities for compliance with this chapter and he will be responsible for the
25 actions of the auxiliary personnel acting in his assistance. This chapter shall also
26 not be construed to prohibit or interfere with any legally registered practitioner
27 of medicine, dentistry, podiatry, or veterinary medicine, or the practice of
28 optometry in accordance with and as provided in sections 195.070 and 336.220,
29 RSMo, in the compounding or dispensing of his own prescriptions.

30 2. Any pharmacist who accepts a prescription order for a medication

31 therapeutic plan shall have a written protocol from the physician who refers the
32 patient for medication therapy services. The written protocol and the prescription
33 order for a medication therapeutic plan shall come from the physician only, and
34 shall not come from a nurse engaged in a collaborative practice arrangement
35 under section 334.104, RSMo, or from a physician assistant engaged in a
36 supervision agreement under section 334.735, RSMo.

37 3. Nothing in this section shall be construed as to prevent any person,
38 firm or corporation from owning a pharmacy regulated by sections 338.210 to
39 338.315, provided that a licensed pharmacist is in charge of such pharmacy.

40 4. Nothing in this section shall be construed to apply to or interfere with
41 the sale of nonprescription drugs and the ordinary household remedies and such
42 drugs or medicines as are normally sold by those engaged in the sale of general
43 merchandise.

44 5. No health carrier as defined in chapter 376, RSMo, shall require any
45 physician with which they contract to enter into a written protocol with a
46 pharmacist for medication therapeutic services.

47 6. This section shall not be construed to allow a pharmacist to diagnose
48 or independently prescribe pharmaceuticals.

49 7. The state board of registration for the healing arts, under section
50 334.125, RSMo, and the state board of pharmacy, under section 338.140, shall
51 jointly promulgate rules regulating the use of protocols for prescription orders for
52 medication therapy services and administration of viral influenza vaccines. Such
53 rules shall require protocols to include provisions allowing for timely
54 communication between the pharmacist and the referring physician, and any
55 other patient protection provisions deemed appropriate by both boards. In order
56 to take effect, such rules shall be approved by a majority vote of a quorum of each
57 board. Neither board shall separately promulgate rules regulating the use of
58 protocols for prescription orders for medication therapy services and
59 administration of viral influenza vaccines. Any rule or portion of a rule, as that
60 term is defined in section 536.010, RSMo, that is created under the authority
61 delegated in this section shall become effective only if it complies with and is
62 subject to all of the provisions of chapter 536, RSMo, and, if applicable, section
63 536.028, RSMo. This section and chapter 536, RSMo, are nonseverable and if any
64 of the powers vested with the general assembly pursuant to chapter 536, RSMo,
65 to review, to delay the effective date, or to disapprove and annul a rule are
66 subsequently held unconstitutional, then the grant of rulemaking authority and
67 any rule proposed or adopted after August 28, 2007, shall be invalid and void.

68 8. The state board of pharmacy may grant a certificate of medication

69 therapeutic plan authority to a licensed pharmacist who submits proof of
70 successful completion of a board-approved course of academic clinical study
71 beyond a bachelor of science in pharmacy, including but not limited to clinical
72 assessment skills, from a nationally accredited college or university, or a
73 certification of equivalence issued by a nationally recognized professional
74 organization and approved by the board of pharmacy.

75 9. Any pharmacist who has received a certificate of medication therapeutic
76 plan authority may engage in the designing, initiating, implementing, and
77 monitoring of a medication therapeutic plan as defined by a prescription order
78 from a physician that is specific to each patient for care by a [specific]
79 pharmacist.

80 10. Nothing in this section shall be construed to allow a pharmacist to
81 make a therapeutic substitution of a pharmaceutical prescribed by a physician
82 unless authorized by the written protocol or the physician's prescription order.

338.013. 1. Any person desiring to assist a pharmacist in the practice of
2 pharmacy as defined in this chapter shall apply to the board of pharmacy for
3 registration as a pharmacy technician. Such applicant shall be, at a minimum,
4 legal working age and shall forward to the board the appropriate fee and written
5 application on a form provided by the board. Such registration shall be the sole
6 authorization permitted to allow persons to assist licensed pharmacists in the
7 practice of pharmacy as defined in this chapter.

8 2. The board may refuse to issue a certificate of registration as a
9 pharmacy technician to an applicant that has been adjudicated and found guilty,
10 or has entered a plea of guilty or nolo contendere, of a violation of any state,
11 territory or federal drug law, or to any felony or has violated any provision of
12 subsection 2 of section 338.055. Alternately, the board may issue such person a
13 registration, but may authorize the person to work as a pharmacy technician
14 provided that person adheres to certain terms and conditions imposed by the
15 board. The board shall place on the employment disqualification list the name
16 of an applicant who the board has refused to issue a certificate of registration as
17 a pharmacy technician, or the name of a person who the board has issued a
18 certificate of registration as a pharmacy technician but has authorized to work
19 under certain terms and conditions. The board shall notify the applicant of the
20 applicant's right to file a complaint with the administrative hearing commission
21 as provided by chapter 621, RSMo.

22 3. If an applicant has submitted the required fee and an application for
23 registration to the board of pharmacy, the applicant for registration as a
24 pharmacy technician may assist a licensed pharmacist in the practice of

25 pharmacy as defined in this chapter [for a period of up to ninety days prior to the
26 issuance of a certificate of registration]. The applicant shall keep a copy of the
27 submitted application on the premises where the applicant is employed. [When]
28 If the board refuses to issue a certificate of registration as a pharmacy technician
29 to an applicant, the applicant shall immediately cease assisting a licensed
30 pharmacist in the practice of pharmacy.

31 4. A certificate of registration issued by the board shall be conspicuously
32 displayed in the pharmacy or place of business where the registrant is employed.

33 5. Every pharmacy technician who desires to continue to be registered as
34 provided in this section shall, within thirty days before the registration expiration
35 date, file an application for the renewal, accompanied by the fee prescribed by the
36 board. [No registration as provided in this section shall be valid if the
37 registration has expired and has not been renewed as provided in this
38 subsection] **The registration shall lapse and become null and void thirty**
39 **days after the expiration date.**

40 6. The board shall maintain an employment disqualification list. No
41 person whose name appears on the employment disqualification list shall work
42 as a pharmacy technician, except as otherwise authorized by the board. The
43 board may authorize a person whose name appears on the employment
44 disqualification list to work or continue to work as a pharmacy technician
45 provided the person adheres to certain terms and conditions imposed by the
46 board.

47 7. The board may place on the employment disqualification list the name
48 of a pharmacy technician who has been adjudicated and found guilty, or has
49 entered a plea of guilty or nolo contendere, of a violation of any state, territory
50 [of] or federal drug law, or to any felony or has violated any provision of
51 subsection 2 of section 338.055.

52 8. After an investigation and a determination has been made to place a
53 person's name on the employment disqualification list, the board shall notify such
54 person in writing mailed to the person's last known address [that]:

55 (1) **That** an allegation has been made against the person, the substance
56 of the allegation and that an investigation has been conducted which tends to
57 substantiate the allegation;

58 (2) **That** such person's name has been added in the employment
59 disqualification list of the board;

60 (3) The consequences to the person of being listed and the length of time
61 the person's name will be on the list; and

62 (4) The person's right to file a complaint with the administrative hearing

63 commission as provided in chapter 621, RSMo.

64 9. The length of time a person's name shall remain on the disqualification
65 list shall be determined by the board.

66 10. No hospital or licensed pharmacy shall knowingly employ any person
67 whose name appears on the employee disqualification list, except that a hospital
68 or licensed pharmacy may employ a person whose name appears on the
69 employment disqualification list but the board has authorized to work under
70 certain terms and conditions. Any hospital or licensed pharmacy shall report to
71 the board any final disciplinary action taken against a pharmacy technician or
72 the voluntary resignation of a pharmacy technician against whom any complaints
73 or reports have been made which might have led to final disciplinary action that
74 can be a cause of action for discipline by the board as provided for in subsection
75 2 of section 338.055. Compliance with the foregoing sentence may be interposed
76 as an affirmative defense by the employer. Any hospital or licensed pharmacy
77 which reports to the board in good faith shall not be liable for civil damages.

338.220. 1. It shall be unlawful for any person, copartnership,
2 association, corporation or any other business entity to open, establish, operate,
3 or maintain any pharmacy as defined by statute without first obtaining a permit
4 or license to do so from the Missouri board of pharmacy. **A permit shall not be**
5 **required for an individual licensed pharmacist to perform**
6 **nondispensing activities outside of a pharmacy, as provided by the**
7 **rules of the board. A permit shall not be required for an individual**
8 **licensed pharmacist to administer drugs, vaccines, and biologicals by**
9 **protocol, as permitted by law, outside of a pharmacy.** The following
10 classes of pharmacy permits or licenses are hereby established:

- 11 (1) Class A: Community/ambulatory;
- 12 (2) Class B: Hospital outpatient pharmacy;
- 13 (3) Class C: Long-term care;
- 14 (4) Class D: Nonsterile compounding;
- 15 (5) Class E: Radio pharmaceutical;
- 16 (6) Class F: Renal dialysis;
- 17 (7) Class G: Medical gas;
- 18 (8) Class H: Sterile product compounding;
- 19 (9) Class I: Consultant services;
- 20 (10) Class J: Shared service;
- 21 (11) Class K: Internet;
- 22 (12) Class L: Veterinary.

23 2. Application for such permit or license shall be made upon a form

24 furnished to the applicant; shall contain a statement that it is made under oath
25 or affirmation and that its representations are true and correct to the best
26 knowledge and belief of the person signing same, subject to the penalties of
27 making a false affidavit or declaration; and shall be accompanied by a permit or
28 license fee. The permit or license issued shall be renewable upon payment of a
29 renewal fee. Separate applications shall be made and separate permits or
30 licenses required for each pharmacy opened, established, operated, or maintained
31 by the same owner.

32 3. All permits, licenses or renewal fees collected pursuant to the
33 provisions of sections 338.210 to 338.370 shall be deposited in the state treasury
34 to the credit of the Missouri board of pharmacy fund, to be used by the Missouri
35 board of pharmacy in the enforcement of the provisions of sections 338.210 to
36 338.370, when appropriated for that purpose by the general assembly.

37 4. Class L: veterinary permit shall not be construed to prohibit or
38 interfere with any legally registered practitioner of veterinary medicine in the
39 compounding or dispensing of their own prescriptions.

40 5. Notwithstanding any other law to the contrary, the provisions of this
41 section shall not apply to the sale, dispensing, or filling of a pharmaceutical
42 product or drug used for treating animals.

338.337. It shall be unlawful for any out-of-state wholesale drug
2 distributor or out-of-state pharmacy acting as a distributor to do business in this
3 state without first obtaining a license to do so from the board of pharmacy and
4 paying the required fee. Application for an out-of-state wholesale drug
5 distributor's license under this section shall be made on a form furnished by the
6 board. The issuance of a license under sections 338.330 to 338.370 shall not
7 change or affect tax liability imposed by the Missouri department of revenue on
8 any out-of-state wholesale drug distributor or out-of-state pharmacy. Any
9 out-of-state wholesale drug distributor that is a drug manufacturer and which
10 produces and distributes from a facility which has been inspected and approved
11 by the Food and Drug Administration [within the last two years], **maintains**
12 **current approval by the Food and Drug Administration, has provided**
13 **a copy of the most recent Food and Drug Administration Establishment**
14 **Inspection Report to the board**, and which is licensed by the state in which
15 the distribution facility is located, **or if located within a foreign**
16 **jurisdiction, is authorized and in good standing to operate as a drug**
17 **manufacturer within such jurisdiction**, need not be licensed as provided in
18 this section but such out-of-state distributor shall register its business name and
19 address with the board of pharmacy and pay a filing fee [of ten dollars] **in an**

20 **amount established by the board.**

346.015. 1. No person shall engage in the practice of fitting hearing
2 instruments or display a sign or in any other way advertise or represent such
3 person by any other words, letters, abbreviations or insignia indicating or
4 implying that the person practices the fitting of hearing instruments unless the
5 person holds a valid license issued by the [division] **board** as provided in this
6 chapter. The license shall be conspicuously posted in the person's office or place
7 of business. Duplicate licenses shall be issued by the department to valid license
8 holders operating more than one office, without additional payment. A license
9 under this chapter shall confer upon the holder the right to select, fit and sell
10 hearing instruments.

11 2. Each person licensed pursuant to sections 346.010 to 346.250 shall
12 display the license in an appropriate and public manner and shall keep the board
13 informed of the licensee's current address. A license issued pursuant to sections
14 346.010 to 346.250 is the property of the [division] **board** and must be
15 surrendered on demand in the event of expiration or after a final determination
16 is made with respect to revocation, suspension or probation.

17 3. Nothing in this chapter shall prohibit a corporation, partnership, trust,
18 association or other like organization maintaining an established business
19 address from engaging in the business of selling or offering for sale hearing
20 instruments at retail, provided that it employ only properly licensed hearing
21 instrument specialists or properly licensed audiologists in the direct sale and
22 fitting of such instruments. Each corporation, partnership, trust, association or
23 other like organization shall file annually with the board on a form provided by
24 the board, a list of all licensed hearing instrument specialists employed by
25 it. Each organization shall also file with the [division] **board** a statement, on a
26 form provided by the [division] **board**, that it agrees to comply with the rules
27 and regulations of the [division] **board** and the provisions of this chapter.

28 4. Any person who violates any provision of this section is guilty of a class
29 B misdemeanor.

346.045. The [division] **board** shall license each qualified applicant,
2 without discrimination, who passes an examination as provided in this chapter
3 and upon the applicant's payment of the examination fee and the license fee, shall
4 issue to the applicant a license.

346.050. Whenever the board determines that another state or jurisdiction
2 has requirements equivalent to or higher than those in effect pursuant to sections
3 346.010 to 346.250 and that such state or jurisdiction has a program equivalent
4 to or stricter than the program for determining whether an applicant, pursuant

5 to sections 346.010 to 346.250 is qualified to engage in the practice of fitting
6 hearing instruments, [the division upon recommendation by] the board shall
7 issue a license to applicants who hold current, unsuspended and unrevoked
8 certificates or licenses to fit hearing instruments in such other state or
9 jurisdiction provided that such jurisdiction extends like privileges for reciprocal
10 licensing or certification to persons licensed by this state with similar
11 qualifications. No such applicant for licensure shall be required to submit to or
12 undergo a qualifying examination other than the payment of fees pursuant to
13 sections 346.045 and 346.095. Such applicant shall be registered in the same
14 manner as licensees in this state. The fee for an initial license issued pursuant
15 to this section shall be the same as the fee for an initial license issued pursuant
16 to section 346.045. Fees, grounds for renewal, and procedures for the suspension
17 and revocation of licenses granted pursuant to this section shall be the same as
18 for renewal, suspension and revocation of an initial license issued pursuant to
19 section 346.045.

346.070. An applicant who fulfills the requirements regarding age,
2 character, and education as set forth in section 346.055, may obtain a temporary
3 permit upon application to the board, as defined by [division] **board** rule.

346.075. 1. Upon receiving an application as provided under section
2 346.070 and accompanied by a temporary permit fee, the [division] **board** shall
3 issue a temporary permit which shall entitle the applicant to engage in
4 supervised training for a period of one year. A holder of a temporary permit who
5 is engaged in supervised training under a supervisor is authorized to use only the
6 title "hearing instrument specialist in-training", or its equivalent, as defined by
7 [division] **board** rule. A hearing instrument specialist in-training shall not hold
8 himself out to the public by any title, term, or words that give the impression that
9 the permit holder is a licensed hearing instrument specialist. The division, upon
10 recommendation of the board, shall have the power to suspend or revoke the
11 temporary permit of any person who violates the provisions of this subsection.

12 2. A licensed hearing instrument specialist shall be responsible for the
13 supervised training of no more than two holders of a temporary permit and shall
14 maintain adequate supervision, as defined by [division] **board** rule. The
15 [division, upon recommendation of the] board[,] shall issue a certificate of
16 registration to a hearing instrument specialist who has qualified himself **or**
17 **herself** to provide supervised training to permit holders. The qualifications for
18 a supervisor shall be established by [division] **board** rule[, with the advice of the
19 board]. A fee shall be charged for any registration of supervision, as defined by
20 [division] **board** rule. The division may withdraw the certificate of authority

21 from any supervisor who violates any provision of sections 346.010 to 346.250 or
22 any rule promulgated pursuant thereto.

346.080. If a hearing instrument specialist in-training under this section
2 or section 346.075 has not successfully passed the licensing examination within
3 one year from the date of issuance of the temporary permit, the temporary permit
4 may be renewed by the [division] **board** once for a period of six months upon
5 payment by the applicant of a fee, as defined by [division] **board** rule.

346.090. 1. A licensee shall notify the board in writing of the regular
2 address of the place or places where the licensee engages or intends to engage in
3 the practice of fitting hearing instruments, and the board shall keep a record of
4 the place of business of licensees.

5 2. Any notice required to be given by the board [or division] to a person
6 who holds a license shall be mailed to the licensee at the address of the last
7 known place of business.

346.095. Each person who engages in the practice of fitting hearing
2 instruments shall, on or before the renewal date, pay to the [division] **board** the
3 required fee, present written evidence to the board of annual calibration of all
4 audiometers, and furnish to the board satisfactory evidence of having successfully
5 completed an educational program approved by the board. The licensee shall
6 keep such license conspicuously posted in licensee's office or place of business at
7 all times. Where more than one office is operated by the licensee, duplicate
8 licenses shall be issued by the [division] **board** for posting in each
9 location. After the expiration date of a license, the [division] **board** may renew
10 a license upon payment of the required penalty fee to the [division] **board**. No
11 person whose license has expired shall be required to submit to any examination
12 as a condition of renewal, provided such renewal application is made within two
13 years from the date of such expiration and all renewal requirements have been
14 met as set forth in this section.

346.100. 1. Any person wishing to make a complaint against a licensee
2 under sections 346.010 to 346.250 shall reduce the same to writing and file the
3 complaint with the board, setting forth the details thereof upon which the
4 complaint is based. If the board, following an investigation, determines the
5 charges made in the complaint are sufficient to warrant a hearing to determine
6 whether the license issued under sections 346.010 to 346.250 shall be suspended
7 or revoked, the board shall [request the division to] file a complaint with the
8 administrative hearing commission as provided by chapter 621, RSMo.

9 2. After the filing of such complaint, the proceedings shall be conducted
10 in accordance with the provisions of chapter 621, RSMo. Upon a finding by the

11 administrative hearing commission that the grounds, provided in subsection 2 of
12 section 346.105, for disciplinary action are met, the [division in collaboration with
13 the] board may, singly or in combination, censure or place the person named in
14 the complaint on probation on such terms and conditions as the [division in
15 collaboration with the] board deems appropriate for a period not to exceed five
16 years, or may suspend, for a period not to exceed three years, or revoke the
17 license or certificate.

18 3. The board shall maintain an information file containing each complaint
19 filed with the board relating to a licensee. The board, at least quarterly, shall
20 notify the complainant and licensee of the complaint's status until final
21 disposition.

346.105. 1. The [division] **board** may refuse to issue any certificate of
2 registration or authority, permit or license required pursuant to this chapter,
3 upon recommendation of the board, for one or any combination of causes stated
4 in subsection 2 of this section. The board shall notify the applicant in writing of
5 the reasons for the refusal and shall advise the applicant of the applicant's right
6 to file a complaint with the administrative hearing commission as provided by
7 chapter 621, RSMo.

8 2. The division may cause a complaint to be filed with the administrative
9 hearing commission as provided by chapter 621, RSMo, against any holder of any
10 certificate of registration or authority, permit or license required by this chapter
11 or against any person who has failed to renew or has surrendered such person's
12 certificate of registration or authority, permit or license for any one or any
13 combination of the following causes:

14 (1) Use of any controlled substance, as defined in chapter 195, RSMo, or
15 alcoholic beverage to an extent that such use impairs a person's ability to perform
16 the work of any profession licensed or regulated by this chapter;

17 (2) The person has been finally adjudicated and found guilty, or entered
18 a plea of guilty or nolo contendere, in a criminal prosecution under the laws of
19 any state or of the United States, for any offense reasonably related to the
20 qualification, functions or duties of any profession licensed or regulated under
21 this chapter, for any offense an essential element of which is fraud, dishonesty
22 or an act of violence, or for any offense involving moral turpitude, whether or not
23 sentence is imposed;

24 (3) Use of fraud, deception, misrepresentation or bribery in securing any
25 certificate of registration or authority, permit or license issued pursuant to this
26 chapter or in obtaining permission to take any examination given or required
27 pursuant to this chapter;

28 (4) Obtaining or attempting to obtain any fee, charge, tuition or other
29 compensation by fraud, deception or misrepresentation;

30 (5) Incompetency, misconduct, gross negligence, fraud, misrepresentation
31 or dishonesty in the performance of the functions or duties of any profession
32 licensed or regulated by this chapter;

33 (6) Violation of, or assisting or enabling any person to violate, any
34 provision of this chapter, or of any lawful rule or regulation adopted pursuant to
35 this chapter;

36 (7) Impersonation of any person holding a certificate of registration or
37 authority, permit or license or allowing any person to use his or her certificate of
38 registration or authority, permit, license or diploma from any school;

39 (8) Disciplinary action against the holder of a license or other right to
40 practice any profession regulated by this chapter granted by another state,
41 territory, federal agency or country upon grounds for which revocation or
42 suspension is authorized in this state;

43 (9) A person is finally adjudged insane or incompetent by a court of
44 competent jurisdiction;

45 (10) Assisting or enabling any person to practice or offer to practice any
46 profession licensed or regulated by this chapter who is not registered and
47 currently eligible to practice under this chapter;

48 (11) Issuance of a certificate of registration or authority, permit or license
49 based upon a material mistake of fact;

50 (12) Failure to display a valid certificate or license if so required by this
51 chapter or any rule promulgated hereunder;

52 (13) Violation of any professional trust or confidence;

53 (14) Use of any advertisement or solicitation which is false, misleading or
54 deceptive to the general public or persons to whom the advertisement or
55 solicitation is primarily directed;

56 (15) Representing that the service or advice of a person licensed as a
57 physician pursuant to chapter 334, RSMo, will be used or made available in the
58 selection, fitting, adjustment, maintenance or repair of hearing instruments when
59 that is not true, or using the words "doctor", "clinic", "clinical audiologist",
60 "state-licensed clinic", "state registered", "state certified", or "state approved" or
61 any other term, abbreviation, or symbol when it would falsely give the impression
62 that service is being provided by physicians licensed pursuant to chapter 334,
63 RSMo, or by audiologists licensed pursuant to chapter 345, RSMo, or that the
64 licensee's service has been recommended by the state when such is not the case.

346.115. [1.] The powers and duties of the division are as follows:

2 (1) To exercise all budgeting, purchasing, reporting and other related
3 management functions;

4 (2) [To supervise the issuance and renewal of permits, licenses and
5 certificates of registration or authority;

6 (3) To license persons who apply to the board and who are qualified to
7 engage in the practice of fitting hearing instruments;

8 (4) To assist the board in obtaining facilities necessary to carry out the
9 examination of applicants as provided in section 346.035;

10 (5)] To employ, within the funds appropriated, such staff as are necessary
11 to carry out the provisions of sections 346.010 to 346.250[;

12 (6) To recommend for prosecution any person who has violated any
13 provisions of sections 346.010 to 346.250 to an appropriate prosecuting or circuit
14 attorney;

15 (7) To make and publish rules and regulations, in collaboration with the
16 board, not inconsistent with the laws of this state which are necessary to carry
17 out the provisions of sections 346.010 to 346.250. These rules and regulations
18 shall be filed in the office of the secretary of state in accordance with chapter 536,
19 RSMo;

20 (8) To set the amount of the fees which this chapter authorizes and
21 requires by rules and regulations promulgated pursuant to section 536.021,
22 RSMo. The division shall set fees which reflect the cost and expense of
23 administering this chapter.

24 2. No rule or portion of a rule promulgated under the authority of this
25 chapter shall become effective unless it has been promulgated pursuant to the
26 provisions of section 536.024, RSMo].

346.125. 1. The board shall[, in collaboration with the division]:

2 (1) [Provide advice to the division on all matters pertaining to licensure
3 pursuant to sections 346.010 to 346.250;

4 (2)] **Issue and renew permits, licenses, and certificates of**
5 **registration or authority;**

6 (2) **License persons who apply to the board and who are**
7 **qualified to engage in the practice of fitting hearing instruments;**

8 (3) **Obtain facilities necessary to carry out the examination of**
9 **applicants as provided in section 346.035;**

10 (4) **Receive and process complaints;**

11 [(3)] (5) **Review all complaints, authorize investigations wherein there**
12 **is a possible violation of sections 346.010 to 346.250 or regulations promulgated**
13 **pursuant thereto, and make recommendations to the division regarding any filing**

14 with the administrative hearing commission;

15 **(6) Recommend for prosecution any person who has violated any**
16 **provisions of sections 346.010 to 346.250 to an appropriate prosecuting**
17 **attorney or circuit attorney;**

18 **(7) Make and publish rules not inconsistent with the laws of this**
19 **state which are necessary to carry out the provisions of sections**
20 **346.010 to 346.250. Such rules shall be filed in the office of the**
21 **secretary of state in accordance with chapter 536, RSMo. Any rule or**
22 **portion of a rule, as that term is defined in section 536.010, RSMo, that**
23 **is created under the authority delegated in this section shall become**
24 **effective only if it complies with and is subject to all of the provisions**
25 **of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This**
26 **section and chapter 536, RSMo, are nonseverable and if any of the**
27 **powers vested with the general assembly pursuant to chapter 536,**
28 **RSMo, to review, to delay the effective date, or to disapprove and annul**
29 **a rule are subsequently held unconstitutional, then the grant of**
30 **rulemaking authority and any rule proposed or adopted after August**
31 **28, 2009, shall be invalid and void;**

32 **[(4)] (8) Adopt and publish a code of ethics;**

33 **(9) Set the amount of the fees authorized under this chapter and**
34 **required by rules promulgated under chapter 536, RSMo. The board**
35 **shall set fees which reflects the cost and expense of administering this**
36 **chapter;**

37 **[(5)] (10) Establish an official seal;**

38 **[(6)] (11) Provide an examination for applicants. The board may obtain**
39 **the services of specially trained and qualified persons or organizations to assist**
40 **in developing or conducting examinations;**

41 **[(7)] (12) Review the examination results of applicants for licensure;**

42 **[(8)] (13) Determine the appropriate educational requirements, as**
43 **defined by division rule, for any applicant desiring to be registered as a permit**
44 **holder, a hearing instrument specialist, or a supervisor;**

45 **[(9)] (14) Follow the provisions of the division's administrative practices**
46 **and procedures in conducting all official duties.**

47 2. The chairperson or vice chairperson shall have power to administer
48 oaths and to subpoena witnesses to require attendance and testimony and to
49 require production of documents and records, and to that end the board may
50 invoke the aid of the circuit court of any county of the state having jurisdiction
51 over the witness, and any failure to obey the order of the court may be punished

52 by the court as a contempt thereof.

376.811. 1. Every insurance company and health services corporation
2 doing business in this state shall offer in all health insurance policies benefits or
3 coverage for chemical dependency meeting the following minimum standards:

4 (1) Coverage for outpatient treatment through a nonresidential treatment
5 program, or through partial- or full-day program services, of not less than
6 twenty-six days per policy benefit period;

7 (2) Coverage for residential treatment program of not less than
8 twenty-one days per policy benefit period;

9 (3) Coverage for medical or social setting detoxification of not less than
10 six days per policy benefit period;

11 (4) The coverages set forth in this subsection may be subject to a separate
12 lifetime frequency cap of not less than ten episodes of treatment, except that such
13 separate lifetime frequency cap shall not apply to medical detoxification in a
14 life-threatening situation as determined by the treating physician and
15 subsequently documented within forty-eight hours of treatment to the reasonable
16 satisfaction of the insurance company or health services corporation; and

17 (5) The coverages set forth in this subsection:

18 (a) Shall be subject to the same coinsurance, co-payment and deductible
19 factors as apply to physical illness;

20 (b) May be administered pursuant to a managed care program established
21 by the insurance company or health services corporation; and

22 (c) May deliver covered services through a system of contractual
23 arrangements with one or more providers, hospitals, nonresidential or residential
24 treatment programs, or other mental health service delivery entities certified by
25 the department of mental health, or accredited by a nationally recognized
26 organization, or licensed by the state of Missouri.

27 2. In addition to the coverages set forth in subsection 1 of this section,
28 every insurance company, health services corporation and health maintenance
29 organization doing business in this state shall offer in all health insurance
30 policies, benefits or coverages for recognized mental illness, excluding chemical
31 dependency, meeting the following minimum standards:

32 (1) Coverage for outpatient treatment, including treatment through
33 partial- or full-day program services, for mental health services for a recognized
34 mental illness rendered by a licensed professional to the same extent as any other
35 illness;

36 (2) Coverage for residential treatment programs for the therapeutic care
37 and treatment of a recognized mental illness when prescribed by a licensed

38 professional and rendered in a psychiatric residential treatment center licensed
39 by the department of mental health or accredited by the Joint Commission on
40 Accreditation of Hospitals to the same extent as any other illness;

41 (3) Coverage for inpatient hospital treatment for a recognized mental
42 illness to the same extent as for any other illness, not to exceed ninety days per
43 year;

44 (4) The coverages set forth in this subsection shall be subject to the same
45 coinsurance, co-payment, deductible, annual maximum and lifetime maximum
46 factors as apply to physical illness; and

47 (5) The coverages set forth in this subsection may be administered
48 pursuant to a managed care program established by the insurance company,
49 health services corporation or health maintenance organization, and covered
50 services may be delivered through a system of contractual arrangements with one
51 or more providers, community mental health centers, hospitals, nonresidential or
52 residential treatment programs, or other mental health service delivery entities
53 certified by the department of mental health, or accredited by a nationally
54 recognized organization, or licensed by the state of Missouri.

55 3. The offer required by sections 376.810 to 376.814 may be accepted or
56 rejected by the group or individual policyholder or contract holder and, if
57 accepted, shall fully and completely satisfy and substitute for the coverage under
58 section 376.779. Nothing in sections 376.810 to 376.814 shall prohibit an
59 insurance company, health services corporation or health maintenance
60 organization from including all or part of the coverages set forth in sections
61 376.810 to 376.814 as standard coverage in their policies or contracts issued in
62 this state.

63 4. Every insurance company, health services corporation and health
64 maintenance organization doing business in this state shall offer in all health
65 insurance policies mental health benefits or coverage as part of the policy or as
66 a supplement to the policy. Such mental health benefits or coverage shall include
67 at least two sessions per year to a licensed psychiatrist, licensed psychologist,
68 licensed professional counselor, [or] licensed clinical social worker, **or, subject**
69 **to contractual provisions, a licensed marital and family therapist**, acting
70 within the scope of such license and under the following minimum standards:

71 (1) Coverage and benefits in this subsection shall be for the purpose of
72 diagnosis or assessment, but not dependent upon findings; and

73 (2) Coverage and benefits in this subsection shall not be subject to any
74 conditions of preapproval, and shall be deemed reimbursable as long as the
75 provisions of this subsection are satisfied; and

76 (3) Coverage and benefits in this subsection shall be subject to the same
77 coinsurance, co-payment and deductible factors as apply to regular office visits
78 under coverages and benefits for physical illness.

79 5. If the group or individual policyholder or contract holder rejects the
80 offer required by this section, then the coverage shall be governed by the mental
81 health and chemical dependency insurance act as provided in sections 376.825 to
82 376.836.

83 6. This section shall not apply to a supplemental insurance policy,
84 including a life care contract, accident-only policy, specified disease policy,
85 hospital policy providing a fixed daily benefit only, Medicare supplement policy,
86 long-term care policy, hospitalization-surgical care policy, short-term major
87 medical policy of six months or less duration, or any other supplemental policy
88 as determined by the director of the department of insurance, financial
89 institutions and professional registration.

**Section 1. Any person who provides teeth whitening services to
2 another person by use of products not readily available to the public
3 through over-the-counter purchase shall be deemed to be engaging in
4 the practice of dentistry. Licensed dental hygienists or dental
5 assistants may apply teeth whitening formulations, but only under the
6 appropriate level of supervision of a licensed dentist as established by
7 rule. Any individual who take the dental impression of another person
8 or who performs any phase of any operation incident to teeth
9 whitening, including but not limited to the instruction or application
10 of on-site teeth whitening materials or procedures, except under the
11 appropriate level of supervision of a licensed dentist, shall be deemed
12 to be engaging in the practice of dentistry.**

[328.030. A board of examiners consisting of four members,
2 including one voting public member, shall be appointed by the
3 governor, by and with the advice and consent of the senate. Each
4 member of the board shall be a United States citizen, shall have
5 been a resident of Missouri for one year and, except for the public
6 member, shall have been a registered and practicing barber for the
7 five years immediately preceding his or her initial
8 appointment. The public member shall be a registered voter and
9 a person who is not and never was a member of any profession
10 licensed or regulated pursuant to this chapter or the spouse of such
11 person; and a person who does not have and never has had a
12 material, financial interest in either the providing of the

13 professional services regulated by this chapter, or an activity or
14 organization directly related to any profession licensed or regulated
15 pursuant to this chapter. All members, including public members,
16 shall be chosen from lists submitted by the director of the division
17 of professional registration. The duties of the public member shall
18 not include the determination of the technical requirements to be
19 met for licensure or whether any person meets such technical
20 requirements or of the technical competence or technical judgment
21 of a licensee or a candidate for licensure. Each member shall serve
22 for a term of four years and until his or her successor is appointed
23 and qualified, except that the successors to the members whose
24 terms expire in 1981 shall consist of one member whose term shall
25 be for two years, one member whose term shall be for three years,
26 and one member whose term shall be for four years. Each member
27 shall take the oath provided by law for public officers. Vacancies
28 on the board shall be filled by appointment by the governor.]

[328.040. The board shall annually elect from its number
2 a president, vice president, and secretary-treasurer, shall have its
3 headquarters in Jefferson City, Missouri, may employ such board
4 personnel, as defined in subdivision (4) of subsection 16 of section
5 620.010, RSMo, as it shall deem necessary within the appropriation
6 therefor. The board shall not create any expense exceeding the
7 sum received from time to time as fees as provided by law, shall
8 have a common seal, and the president and vice president shall
9 have the power to administer oaths. A majority of the board, in
10 meeting duly assembled, may perform the duties and exercise the
11 powers devolving upon the board under the provisions of this
12 chapter.]

[328.050. 1. Each member of the board shall receive as
2 compensation an amount set by the board not to exceed fifty dollars
3 for each day devoted to the affairs of the board, and shall be
4 entitled to reimbursement of his expenses necessarily incurred in
5 the discharge of his official duties. All money payable under this
6 chapter shall be collected by the division of professional
7 registration in the department of insurance, financial institutions
8 and professional registration which shall transmit them to the
9 department of revenue for deposit in the state treasury to the
10 credit of a "Board of Barbers Fund". Warrants shall be drawn upon

11 the treasurer out of this fund only for the payment of the salaries,
12 office and other necessary expenses of the board. A detailed
13 statement of the expenses incurred by the board, approved by the
14 secretary-treasurer of the board, shall be filed with the
15 commissioner of administration before warrants are drawn for their
16 payment.

17 2. The provisions of section 33.080, RSMo, to the contrary
18 notwithstanding, money in this fund shall not be transferred and
19 placed to the credit of general revenue until the amount in the fund
20 at the end of the biennium exceeds two times the amount of the
21 appropriation from the board's funds for the preceding fiscal year
22 or, if the board requires by rule permit renewal less frequently
23 than yearly, then three times the appropriation from the board's
24 funds for the preceding fiscal year. The amount, if any, in the fund
25 which shall lapse is that amount in the fund which exceeds the
26 appropriate multiple of the appropriations from the board's funds
27 for the preceding fiscal year.]

[328.060. 1. The board shall set the amount of the fees
2 which this chapter authorizes and requires by rules and
3 regulations promulgated pursuant to section 536.021, RSMo. The
4 fees shall be set at a level to produce revenue which shall not
5 substantially exceed the cost and expense of administering this
6 chapter.

7 2. The board shall, with the approval of the department of
8 health and senior services, prescribe such sanitary rules as it may
9 deem necessary to prevent the creation and spread of infectious
10 and contagious diseases. A copy of such rules shall be posted in a
11 conspicuous place in every barber shop and barber school or college
12 in this state.]

[328.140. There shall be kept a register, in which shall be
2 entered the names of all persons to whom certificates are issued,
3 and to whom permits for serving apprenticeship, or as students,
4 under this chapter, and said register shall, at all reasonable times,
5 be open to the public inspection.]

[329.180. There is hereby created and established a "State
2 Board of Cosmetology" for the purpose of licensing all persons
3 engaged in the practice of hair dressing, cosmetology and
4 manicuring in this state. The board shall have control and

5 supervision of the licensed occupations, and enforcement of the
6 terms and provisions of this chapter.]

[329.190. 1. The state board of cosmetology shall be
2 composed of seven members, including one voting public member
3 and one member who is a licensed school owner pursuant to
4 subsection 1 of section 329.040, appointed by the governor with the
5 advice and consent of the senate. The term of office of each
6 member shall be four years.

7 2. The members of the board shall receive as compensation
8 for their services the sum set by the board not to exceed fifty
9 dollars for each day actually spent in attendance at meetings of the
10 board, within the state, not to exceed forty-eight days in any
11 calendar year, and in addition thereto they shall be reimbursed for
12 all necessary expenses incurred in the performance of their duties
13 as members of the board.

14 3. All members, except the public member, shall be
15 cosmetologists and manicurists duly registered as such and
16 licensed pursuant to the laws of this state, and shall be United
17 States citizens and shall have been residents of this state for at
18 least one year next preceding their appointments and shall have
19 been actively engaged in the lawful practice of cosmetology for a
20 period of at least five years. The public member shall be at the
21 time of the person's appointment a citizen of the United States; a
22 resident of this state for a period of one year and a registered
23 voter; a person who is not and never was a member of any
24 profession licensed or regulated pursuant to this chapter or the
25 spouse of such person; and a person who does not have and never
26 has had a material, financial interest in either the providing of the
27 professional services regulated by this chapter, or an activity or
28 organization directly related to any profession licensed or regulated
29 pursuant to this chapter. All members, including public members,
30 shall be chosen from lists submitted by the director of the division
31 of professional registration. The duties of the public member shall
32 not include the determination of the technical requirements to be
33 met for licensure or whether any person meets such technical
34 requirements or of the technical competence or technical judgment
35 of a licensee or a candidate for licensure. Any member who is a
36 school owner shall not be allowed access to the testing and

37 examination materials nor to attend the administration of the
38 examinations, except when such member is being examined for
39 licensure.]

[329.191. Notwithstanding the provisions of section
2 329.190, to the contrary, compensation of the state board of
3 cosmetology shall not exceed seventy dollars for each day actually
4 spent in attendance at meetings plus actual and necessary
5 expenses.]

[329.200. The governor shall, by and with the advice and
2 consent of the senate, fill any vacancies caused by the expiration
3 of the term of office of any member of the board, and the governor
4 shall also fill any vacancy caused by death, resignation or removal
5 which may occur when the general assembly is not in session, but
6 all such appointees shall continue in office only until the meeting
7 of the general assembly next following such appointment and until
8 their successors shall be appointed and qualified. All vacancies
9 which may exist at or during the meeting of the general assembly
10 caused by death, resignation or removal shall be filled in like
11 manner as those created by the expiration of official terms and
12 shall be only for the unexpired term of the person whose vacancy
13 is to be filled.]

[329.210. 1. The board shall have power to:

2 (1) Prescribe by rule for the examinations of applicants for
3 licensure to practice the classified occupation of cosmetology and
4 issue licenses;

5 (2) Prescribe by rule for the inspection of cosmetology
6 establishments and schools and appoint the necessary inspectors
7 and examining assistants;

8 (3) Prescribe by rule for the inspection of establishments
9 and schools of cosmetology as to their sanitary conditions and to
10 appoint the necessary inspectors and, if necessary, examining
11 assistants; and set the amount of the fees which this chapter
12 authorizes and requires, by rules and regulations promulgated
13 pursuant to section 536.021, RSMo. The fees shall be set at a level
14 sufficient to produce revenue which shall not substantially exceed
15 the cost and expense of administering this chapter;

16 (4) Employ and remove board personnel, as defined in
17 subdivision (4) of subsection 10 of section 324.001, RSMo, as may

18 be necessary for the efficient operation of the board, within the
19 limitations of its appropriation;

20 (5) Elect one of its members president, one vice president
21 and one secretary;

22 (6) Determine the sufficiency of the qualifications of
23 applicants; and

24 (7) Prescribe by rule the minimum standards and methods
25 of accountability for the schools of cosmetology licensed pursuant
26 to this chapter.

27 2. The board shall create no expense exceeding the sum
28 received from time to time from fees imposed pursuant to this
29 chapter.

30 3. Any rule or portion of a rule, as that term is defined in
31 section 536.010, RSMo, that is created under the authority
32 delegated in this chapter shall become effective only if it complies
33 with and is subject to all of the provisions of chapter 536, RSMo,
34 and, if applicable, section 536.028, RSMo. This section and chapter
35 536, RSMo, are nonseverable and if any of the powers vested with
36 the general assembly pursuant to chapter 536, RSMo, to review, to
37 delay the effective date or to disapprove and annul a rule are
38 subsequently held unconstitutional, then the grant of rulemaking
39 authority and any rule proposed or adopted after August 28, 2001,
40 shall be invalid and void.]

[329.220. At all meetings of the board two members shall
2 be necessary to constitute a quorum for the transaction of business
3 but no official action may be taken unless a majority of the whole
4 board may vote therefor.]

[329.230. The board shall elect one of its members
2 president, one vice president and one secretary, and shall have
3 power to employ and remove such board personnel, as defined in
4 subdivision (4) of subsection 16 of section 620.010, RSMo, as may
5 be necessary for the efficient operation of the board, within the
6 limitations of its appropriation, and to formulate rules and
7 regulations governing its actions; provided, however, the board
8 shall create no expense exceeding the sum received from time to
9 time as fees as provided by law.]

[329.240. 1. All fees provided for in this chapter shall be
2 payable to the director of the division of professional registration

3 in the department of economic development who shall keep a record
4 of the account showing the total payments received and shall
5 immediately thereafter transmit them to the department of revenue
6 for deposit in the state treasury to the credit of a fund to be known
7 as the "State Board of Cosmetology Fund". All the salaries and
8 expenses for the operation of the board shall be appropriated and
9 paid from such fund.

10 2. The provisions of section 33.080, RSMo, to the contrary
11 notwithstanding, money in this fund shall not be transferred and
12 placed to the credit of general revenue until the amount in the fund
13 at the end of the biennium exceeds two times the amount of the
14 appropriation from the board's funds for the preceding fiscal year
15 or, if the board requires by rule permit renewal less frequently
16 than yearly, then three times the appropriation from the board's
17 funds for the preceding fiscal year. The amount, if any, in the fund
18 which shall lapse is that amount in the fund which exceeds the
19 appropriate multiple of the appropriations from the board's funds
20 for the preceding fiscal year.]

[338.057. The board of pharmacy shall publish a list of drug
2 products for which substitution as provided in section 338.056 shall
3 not be permitted. The list of drug products to be included on this
4 list shall be based upon a joint determination made by the
5 department of health and senior services, the state board of
6 registration for the healing arts, and the state board of
7 pharmacy. The board of pharmacy shall publish the list not less
8 often than semiannually, and shall publish amendments to the list
9 as required.]

President of the Senate

Speaker of the House of Representatives

Governor